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1	UNITED STATES DISTRICT COURT	
2	NORTHERN DISTRICT OF CALIFORNIA	
3		
	IN RE: FACEBOOK, INC., MDL No. 2843	
4	CONSUMER USER PROFILE Case No.	
	LITIGATION 18-md-02843-VC-JSC	
5		
6	This document relates to:	
7	ALL ACTIONS	
8		
9		
10		
11	**HIGHLY CONFIDENTIAL**	
12	ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)	
13	CORPORATE REPRESENTATIVE - SIMON CROSS	
14	(Reported Remotely via Video & Web Videoconference)	
15	London, England (Deponent's location)	
16	Tuesday, June 21, 2022	
17	Volume 5	
18		
19	REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED	
20		
	STENOGRAPHICALLY REPORTED BY:	
21	REBECCA L. ROMANO, RPR, CSR, CCR	
	California CSR No. 12546	
22	Nevada CCR No. 827	
	Oregon CSR No. 20-0466	
23	Washington CCR No. 3491	
24	JOB NO. 5291734	
25	PAGES 986 - 1222	
	Page 986	

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1	UNITED STATES DISTRICT COURT
2	NORTHERN DISTRICT OF CALIFORNIA
3	
	IN RE: FACEBOOK, INC., MDL No. 2843
4	CONSUMER USER PROFILE Case No.
	LITIGATION 18-md-02843-VC-JSC
5	
6	This document relates to:
7	ALL ACTIONS
8	
9	
10	
11	
12	
13	
14	
15	DEPOSITION OF SIMON CROSS, taken on
16	behalf of the Plaintiffs, with the deponent located
17	in London, England, commencing at
18	1:37 p.m., Tuesday, June 21, 2022, remotely
19	reported via Video & Web videoconference before
20	REBECCA L. ROMANO, a Certified Shorthand Reporter,
21	Certified Court Reporter, Registered Professional
22	Reporter.
23	
24	
25	
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1	APPEARANCES OF COUNSEL
2	(All parties appearing via Web videoconference)
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1	APPEARANCES OF COUNSEL
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1
                APPEARANCES OF COUNSEL (cont'd)
     (All parties appearing via Web videoconference)
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```
1
                APPEARANCES OF COUNSEL (cont'd)
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24
    /////
25
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```
1
                 APPEARANCES OF COUNSEL (cont'd)
     (All parties appearing via Web videoconference)
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15
    ALSO PRESENT:
          Ian Chen, Associate General Counsel,
16
    Meta Platforms
17
          John Macdonell, Videographer
18
19
20
21
22
23
24
     /////
25
                                               Page 992
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1		INDEX	
2	DEPONENT		EXAMINATION
3	SIMON CROSS		PAGE
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4			
5		BY MR. MELAMED	998
6		BY MR. LOESER	1139
7		BY MR. SCHWING	1206
8		BY MR. LOESER	1207
9			
10			
11		EXHIBITS	
12	NUMBER		PAGE
13		DESCRIPTION	
14	Exhibit 429	Native Excel Spreadsheet	1007
15		C2_019_FB-CA-MDL-02936297;	
16			
17	Exhibit 430	Message Summary,	1101
18		FB-CA-MDL-02898663 -	
19		FB-CA-MDL002898668;	
20			
21	Exhibit 431	Native Excel Spreadsheet,	1107
22		C2_113a_FB-CA-MDL-02898670;	;
23			
24	Exhibit 432	Native Excel Spreadsheet,	1111
25		FB-CA-MDL-02674226;	
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1		E X H I B I T S(cont'd)	
2	NUMBER		PAGE
3		DESCRIPTION	
4	Exhibit 433	Email String Subject: V1	1116
5		extensions,	
6		FB-CA-MDL-01952426 -	
7		FB-CA-MDL-01952427;	
8			
9			
10		PREVIOUSLY MARKED EXHIBITS	
11	NUMBER		PAGE
12	Exhibit 339		1171
13			
14			
15			
16			
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23			
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25	////		
			Page 994

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London, England; Tuesday, June 21, 2022	09:04:04
1:37 p.m.	
000	
THE VIDEOGRAPHER: Okay. We're on the	01:36:58
record. It's 1:37 p.m. on June 21st, 2022. This	
is Volume 5 in Simon Cross's deposition. We're	
here in the matter of Facebook Consumer Privacy	
User Profile Litigation.	
I'm John Macdonell, the videographer with	01:37:15
Veritext.	
Mr. Cross has previously been sworn, but	
would counsel please identify themselves for the	
record.	
MR. MELAMED: Good morning. This is	01:37:26
Matt Melamed from Bleichmar Fonti & Auld on behalf	
of plaintiffs. With me presently is Adele Daniel	
from Keller Rohrback, also on behalf of plaintiffs.	
And I'm sorry also Anne Davis from	
Bleichmar Fonti & Auld on behalf of plaintiffs.	01:37:43
MR. SCHWING: Good morning. This is	
Austin Schwing of Gibson, Dunn & Crutcher on behalf	
of Meta Platforms Inc. I'm joined by Ian Chen,	
Hannah Regan-Smith, and also Phuntso Wangdra and	
Matt Buongiorno.	01:38:00
	Page 995
	1:37 p.m. 000 THE VIDEOGRAPHER: Okay. We're on the record. It's 1:37 p.m. on June 21st, 2022. This is Volume 5 in Simon Cross's deposition. We're here in the matter of Facebook Consumer Privacy User Profile Litigation. I'm John Macdonell, the videographer with Veritext. Mr. Cross has previously been sworn, but would counsel please identify themselves for the record. MR. MELAMED: Good morning. This is Matt Melamed from Bleichmar Fonti & Auld on behalf of plaintiffs. With me presently is Adele Daniel from Keller Rohrback, also on behalf of plaintiffs. And I'm sorry also Anne Davis from Bleichmar Fonti & Auld on behalf of plaintiffs. MR. SCHWING: Good morning. This is Austin Schwing of Gibson, Dunn & Crutcher on behalf of Meta Platforms Inc. I'm joined by Ian Chen, Hannah Regan-Smith, and also Phuntso Wangdra and

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1	SPECIAL MASTER GARRIE: This is	01:38:07
2	Special Master Garrie here on behalf of the Court.	
3	MR. MELAMED: Good morning. Before we	
4	start today's testimony, I just want to identify a	
5	few documents or sources of information that	01:38:29
6	Mr. Cross discussed yesterday that we want to	
7	follow up with Facebook regarding their production.	
8	One is the Can tables, which Mr. Cross, I	
9	believe, identified yesterday, as tables initiated	
10	in or around 2019 operational, in or around 2020,	01:38:53
11	that identified the calls that certain calls	
12	that apps could make on either data.	
13	Another is the Did tables, which were	
14	initiated around the same time. And those indicate	
15	the calls the calls that return user	01:39:21
16	information, where the information was returned, so	
17	those two seem to work in parallel. I apologize if	
18	I'm misstating. I don't intend to. What those	
19	tables were, I think Mr. Cross's testimony on those	
20	was clear yesterday.	01:39:37
21	The third is Pearly Gates. Which	
22	Mr. Cross identified as a precursor or the	
23	precursor to the capabilities tool.	
24	And the fourth is the Launch Manager,	
25	which was identified as a tool to track privacy	01:39:49
		Page 996

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1	a number of privacy decisions that were made	01:39:55
2	internally at Facebook. Same thing with those two.	
3	I don't mean to misstate what Mr. Cross testified	
4	about those. His testimony is what it was. I'm	
5	just identifying them for the record.	01:40:09
6	Three of those four, the Can tables, the	
7	Did tables and Pearly Gates, I do not believe have	
8	been identified previously. The plaintiffs in the	
9	litigation, the fourth Launch Manager has been	
10	identified previously, and plaintiffs have	01:40:23
11	requested that previously.	
12	And would are going to request it	
13	again.	
14	But I just wanted to put that on the	
15	record that we will follow up as well.	01:40:34
16	MR. SCHWING: Okay. Well, I appreciate	
17	you raising the issues that you're concerned about,	
18	Matt Mr. Melamed, you and I are friendly, so I	
19	apologize for the "Matt."	
20	But I know Mr. Cross has previously	01:40:53
21	identified Pearly Gates in a previous deposition	
22	session, and the same is true of the Did table.	
23	And you already knew about the Launch Manager.	
24	Happy happy to talk to you, you know, about	
25	document discovery issues. I don't think this is	01:41:12
		Page 997

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1	the right time. But, you know, we can certainly	01:41:16
2	discuss that.	
3	And I also wanted to to note, as I did	
4	before we got on the record, that Mr. Cross had a	
5	few things that he wanted to clarify, some	01:41:26
6	additional information related to some of the	
7	questioning yesterday.	
8	So at a convenient point in the	
9	deposition, whenever you think it's appropriate, he	
10	would like to share that.	01:41:38
11	MR. MELAMED: Thank you.	
12		
13	SIMON CROSS,	
14	having been previously administered an oath, was	
15	examined and testified as follows:	01:41:41
16	EXAMINATION (resumed)	
17	BY MR. MELAMED:	
18	Q. So, Mr. Cross, you understand you're	
19	still under oath, correct?	
20	A. I do.	01:41:45
21	Q. What	
22	SPECIAL MASTER GARRIE: Are we on the	
23	record?	
24	MR. MELAMED: Mr	
25	Special Master Garrie, sorry.	01:41:49
		Page 998

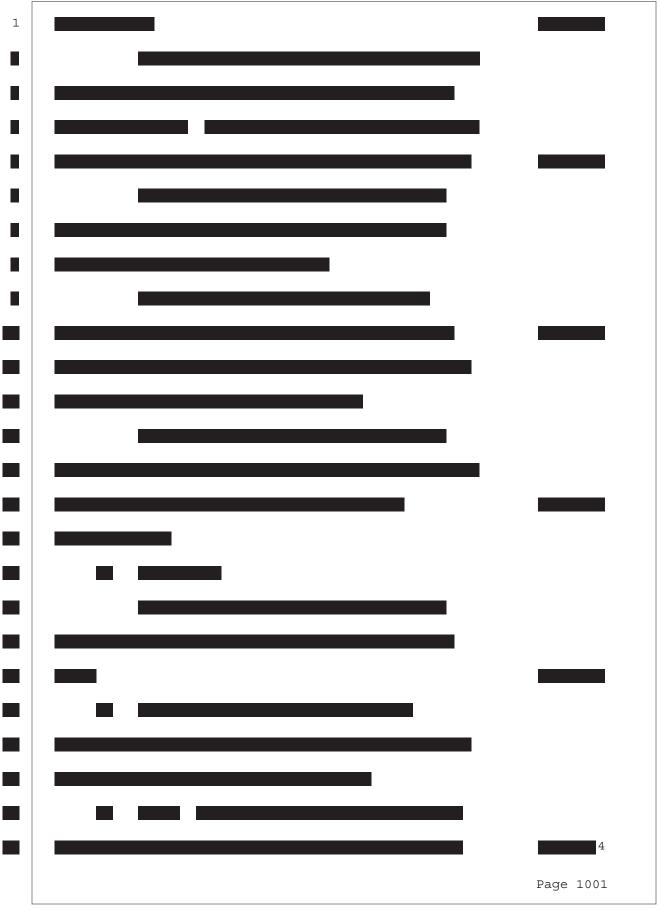
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1	SPECIAL MASTER GARRIE: Yeah, I am sorry	01:41:51
2	for interrupting. I was going to say, in the	
3	interest of efficiency, it would be most helpful if	
4	the parties could meet and confirm on the issues	
5	decided and discussed, and add the issue to	01:41:59
6	mediation tracker so that way we have a record of	
7	these ongoing issues.	
8	If there are downstream issues about each	
9	of these different things, I just wanted to notate	
10	that now because I have other issues that I've	01:42:13
11	written down that haven't been raised on the	
12	mediation tracker, and I'm just assuming they're	
13	being resolved.	
14	So if the parties have a process that's	
15	great. I just encourage them to document it so we	01:42:24
16	don't have any downstream surprises with additional	
17	folks coming being required in the interest of	
18	completeness. And if you could just document that	
19	from the plaintiff's side, that would very helpful.	
20	MR. MELAMED: Will do. Thank you.	01:42:41
21	Q. (By Mr. Melamed) So, Mr. Cross, your	
22	Mr. Schwing indicated that you have some additional	
23	testimony or clar testimony or clarifying	
24	testimony regarding some things you talked about	
25	yesterday.	01:42:55
		Page 999

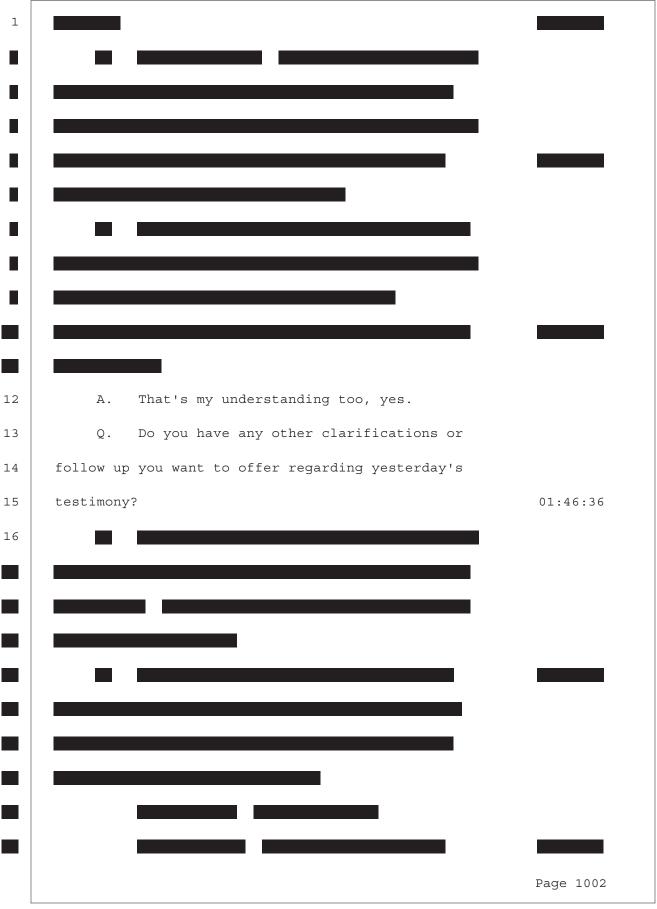
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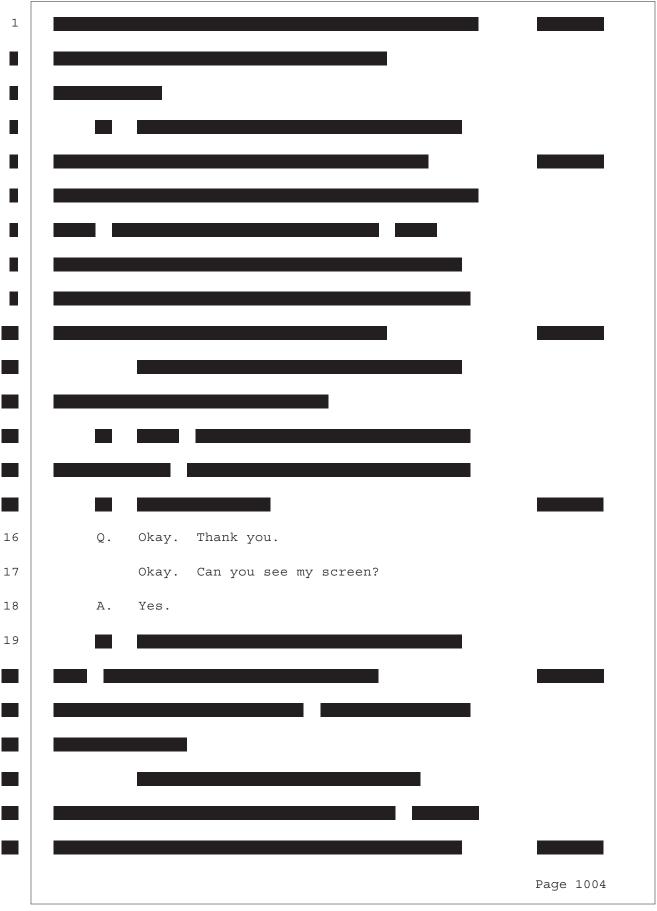
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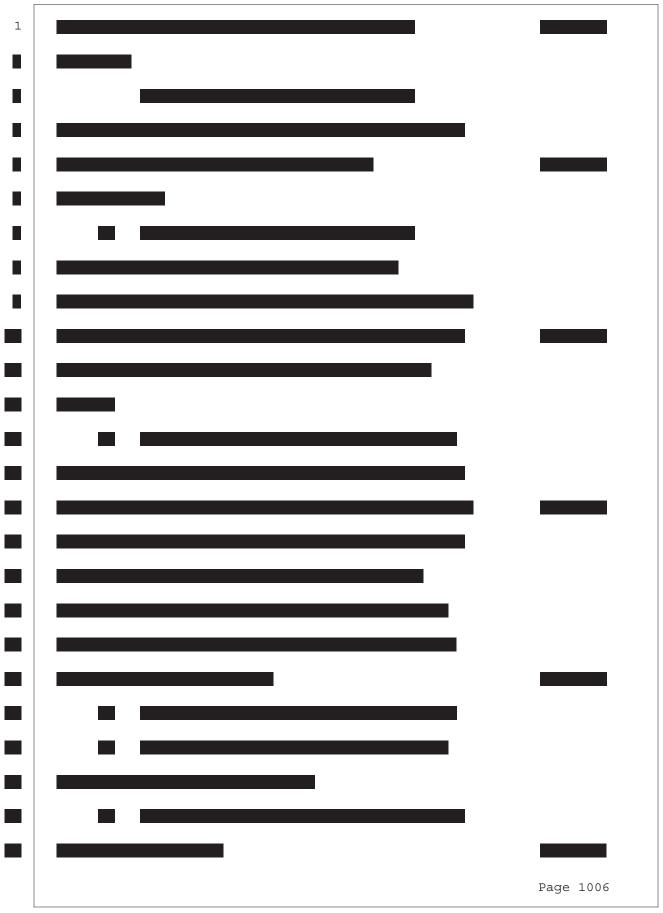
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1		
5	(Exhibit 429 was marked for	01:53:47
6	identification by the court reporter and is	
7	attached hereto.)	
8	MR. MELAMED: So I've marked what I	
9	have introduced what's been marked as Exhibit 429.	
10	Exhibit 429 is Bates number FB-CA-MDL-0236297.	01:53:54
11		
19	MR. SCHWING: Mr. Melamed, it's not	
20	showing up in the Exhibit Share. I'm not sure if	01:54:43
21	that we need to do something to get into the	
22	Exhibit Share.	
23	MR. MELAMED: I think there is a new day	
24	of of for the Exhibit Share, and I think that	
25	it says day 5.	01:54:57
		Page 1007

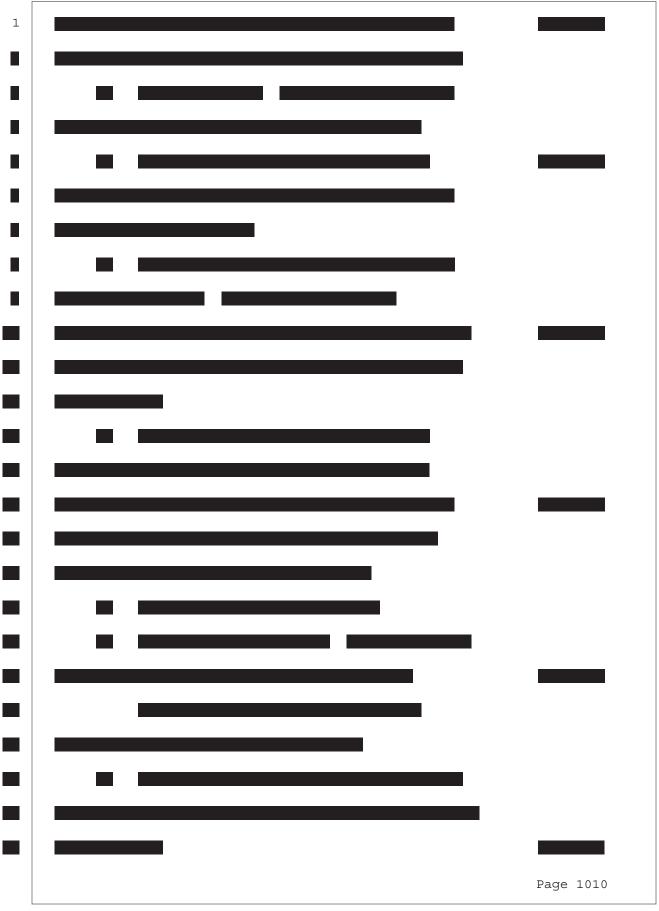
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1	MR. SCHWING: Okay. I will figure that	01:55:03
2	out.	
3	MR. MELAMED: Okay.	
4	MR. SCHWING: Thank you.	
5	Q. (By Mr. Melamed) Mr. Cross, are you able	01:55:05
6	to see it or at least able to see it on my screen	
7	well enough to be able to testify about it?	
8	A. I can see it yeah, and I I also have	
9	it in Exhibit Share.	
10	Q. Okay.	01:55:15
11	A. By the new date.	
12	MR. MELAMED: Mr. Schwing, would you like	
13	me to wait until you're able to pull it up.	
14	MR. SCHWING: I was able to figure it	
15	out. Thank you.	01:55:24
16	MR. MELAMED: Okay.	
17		
		Page 1008

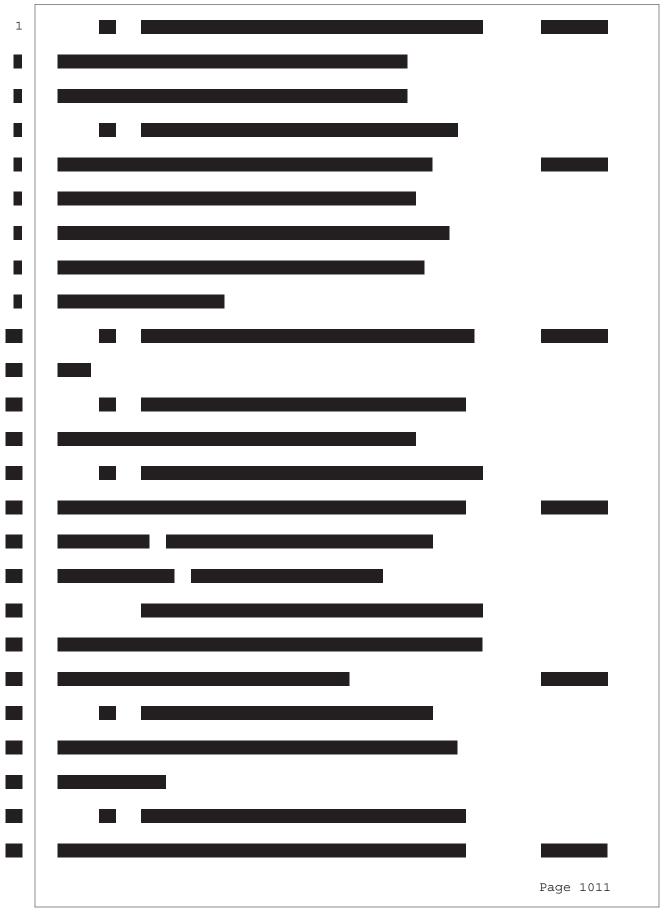
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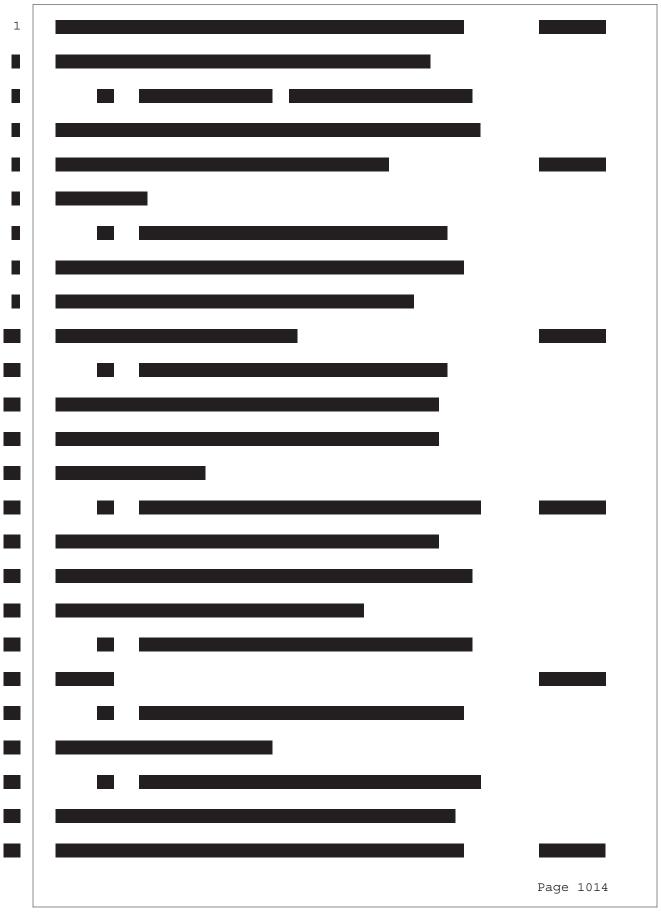
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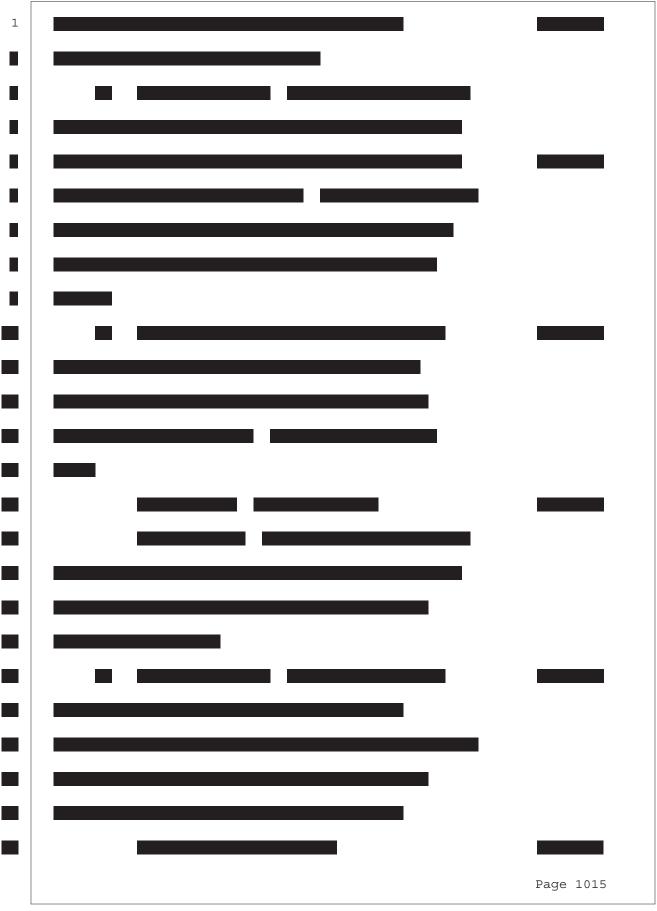
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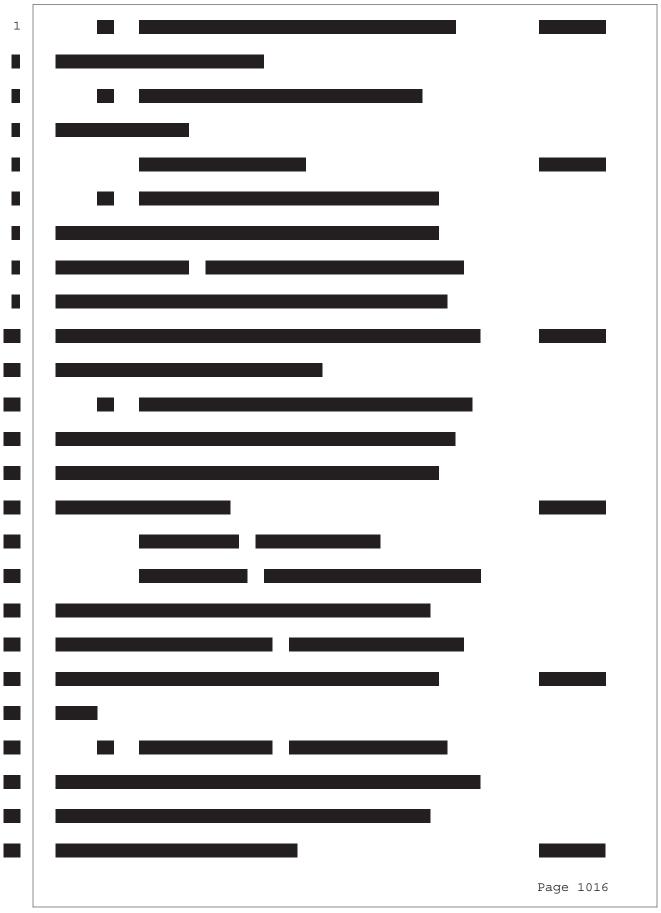
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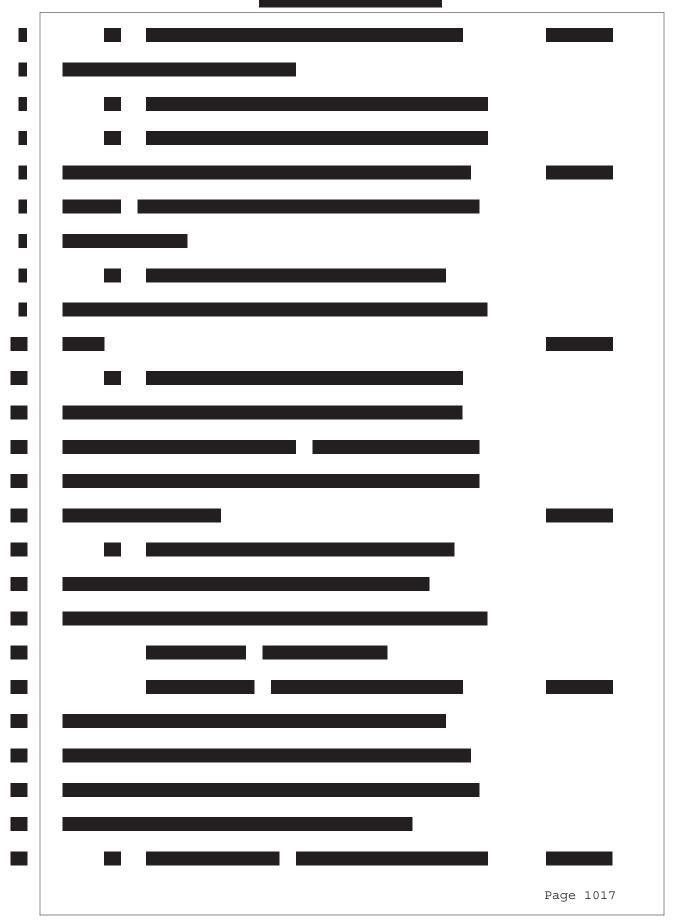


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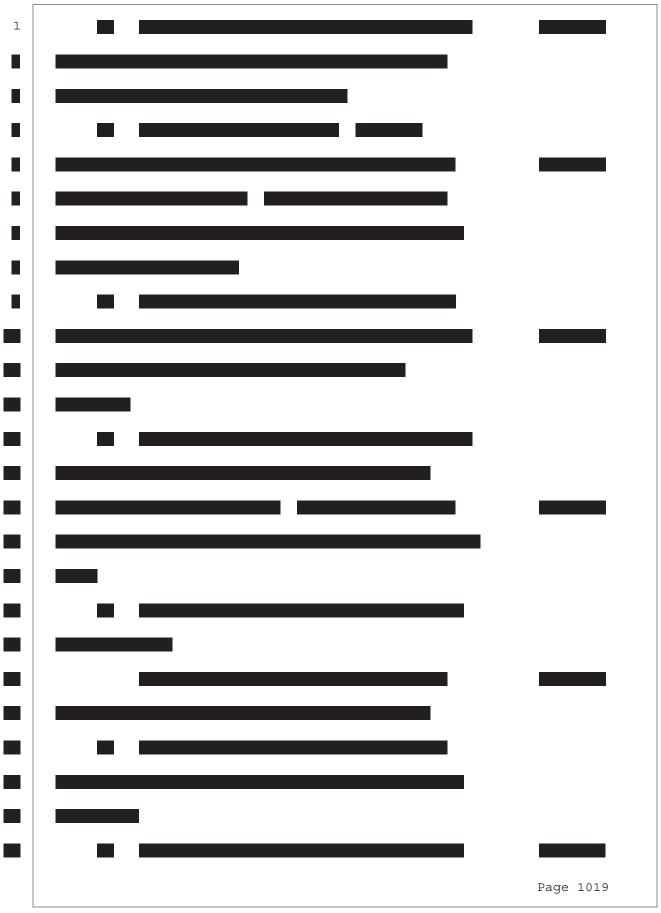




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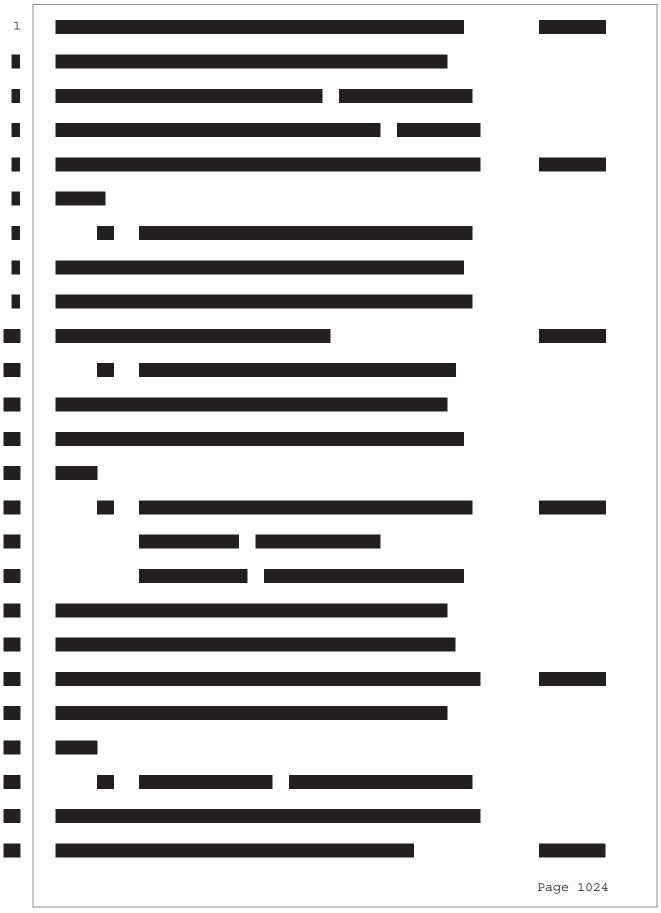
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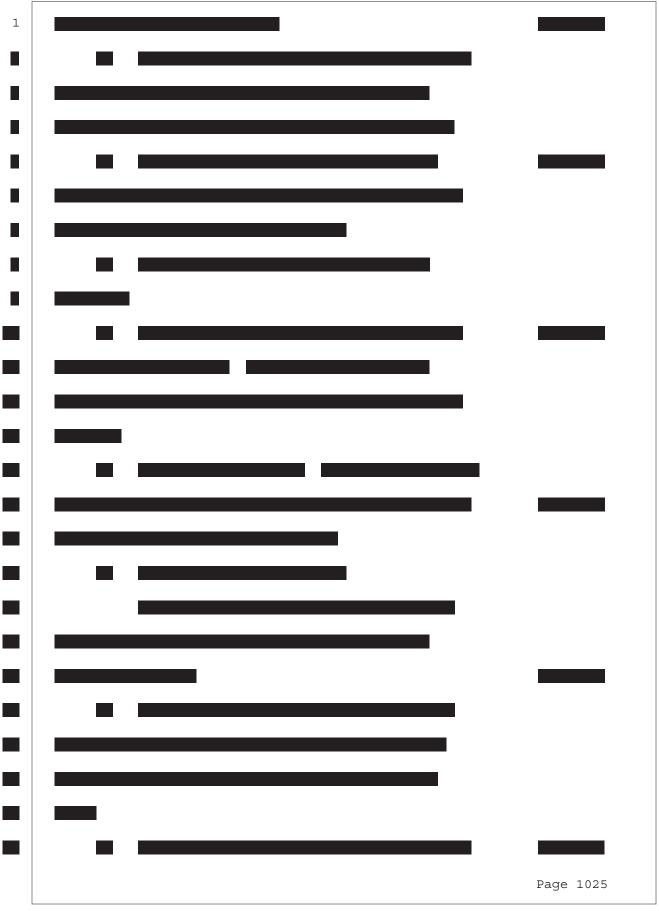
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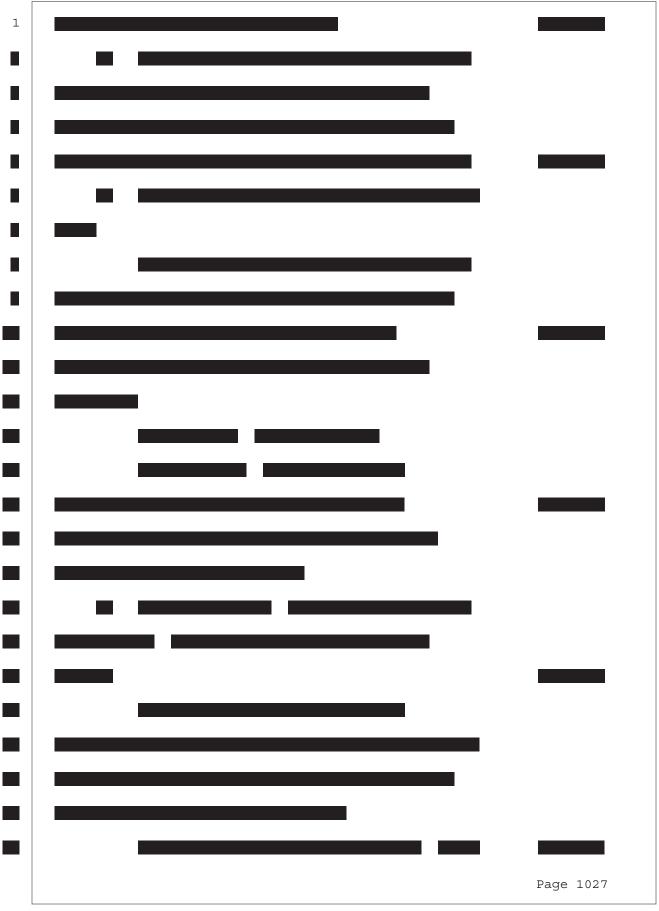
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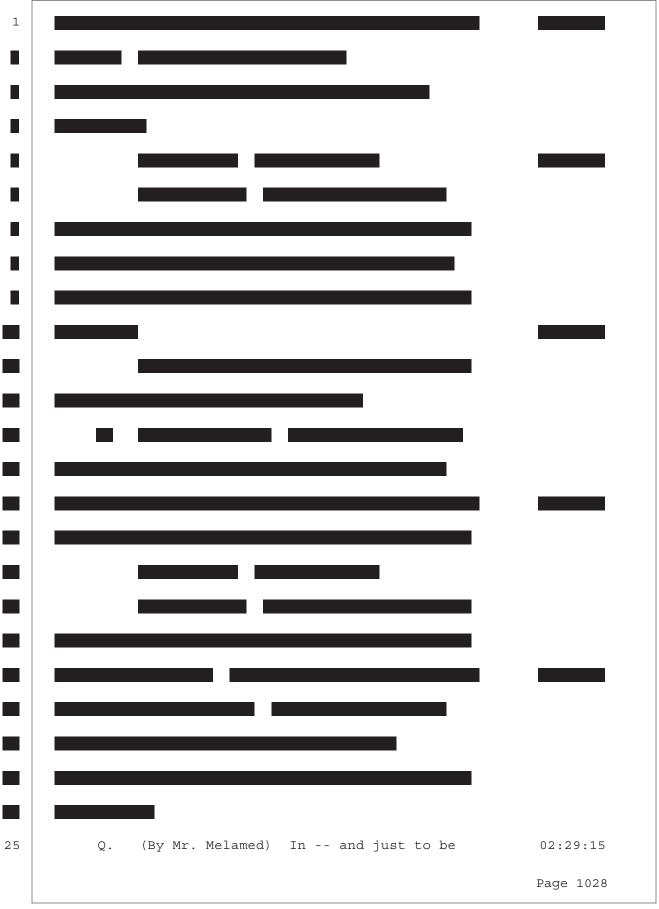
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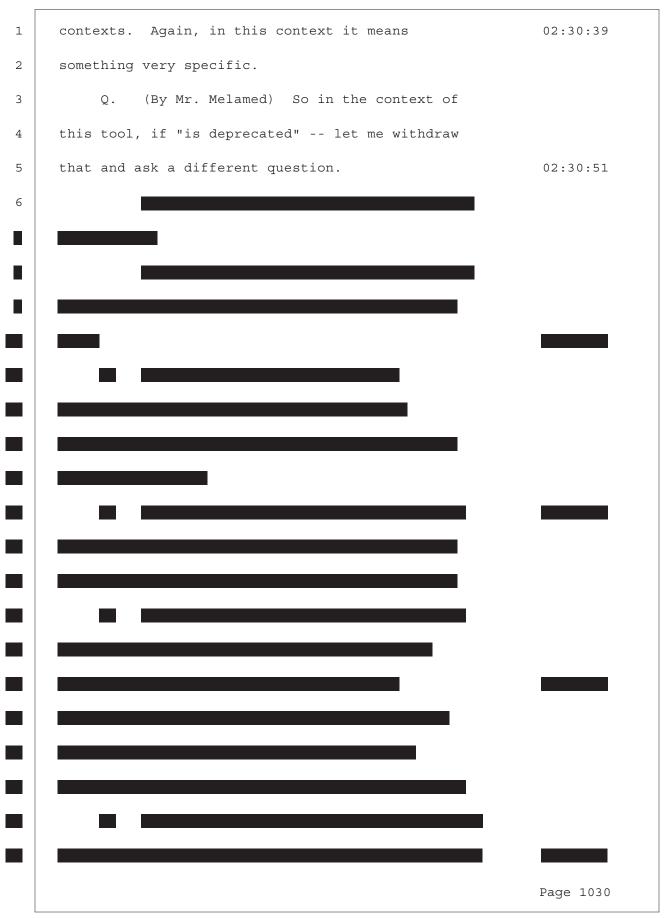
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1	more concrete.	02:29:17
2	Are you aware that in 2014 Facebook	
3	announced it would deprecate friends permissions	
4	APIs?	
5	A. I'm aware that Facebook said it was going	02:29:33
6	to make friend permissions unavailable to most of	
7	third-party developers.	
8	Q. Okay. Did you hear the word did you	
9	understand that Facebook used the term	
10	"deprecation" when it or deprecate when it made	02:29:48
11	that announcement?	
12	MR. SCHWING: Object to form.	
13	THE DEPONENT: I'm aware of the term	
14	"deprecated" being used in in that context.	
15	Q. (By Mr. Melamed) Okay. And that the	02:29:59
16	announcement was that friends permissions would be	
17	deprecated for apps then using Graph 1.0 by	
18	April 30th, 2015.	
19	Do you understand that?	
20	MR. SCHWING: Object to form.	02:30:22
21	THE DEPONENT: There's a number of	
22	different ways that the changes that were announced	
23	were were explained to developers. And, again,	
24	deprecated the word "deprecated" can be used	
25	in can mean different things in different	02:30:36
		Page 1029

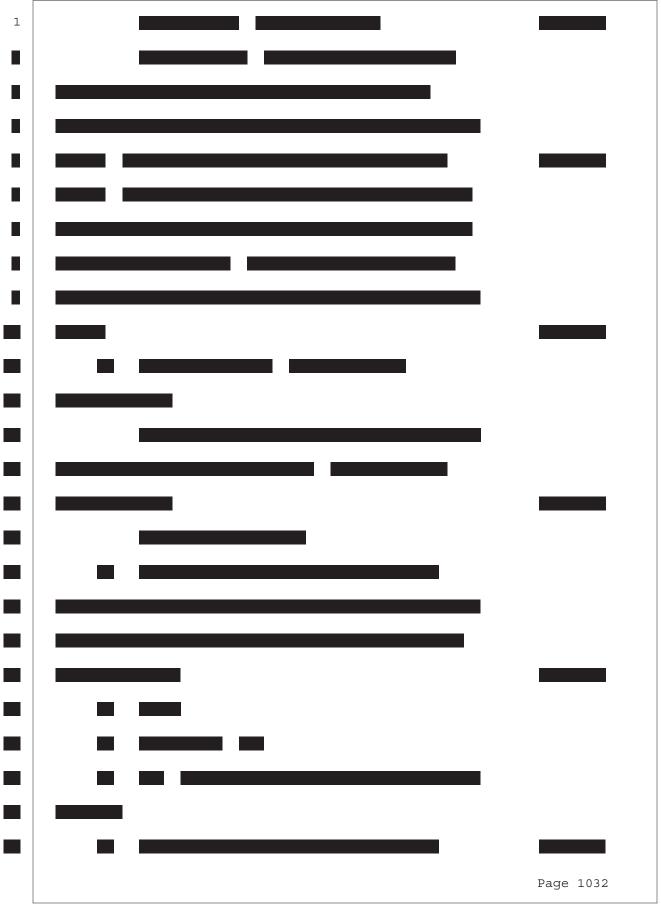
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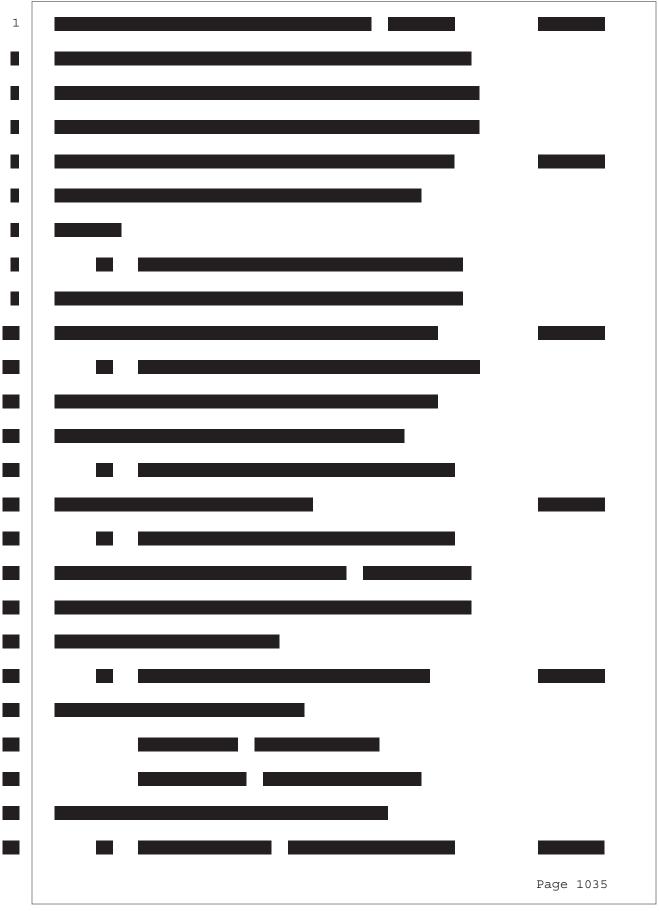
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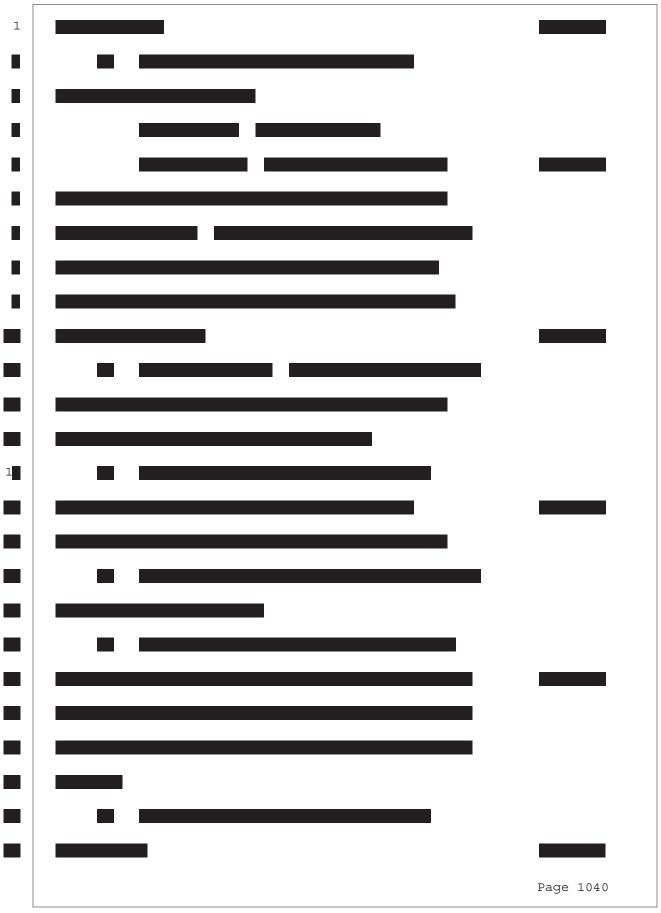
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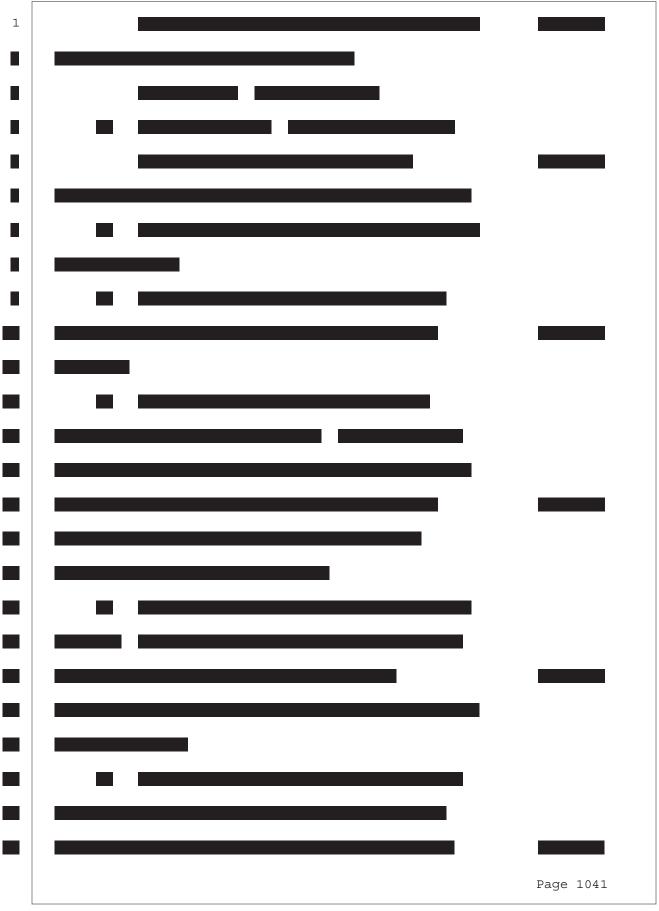
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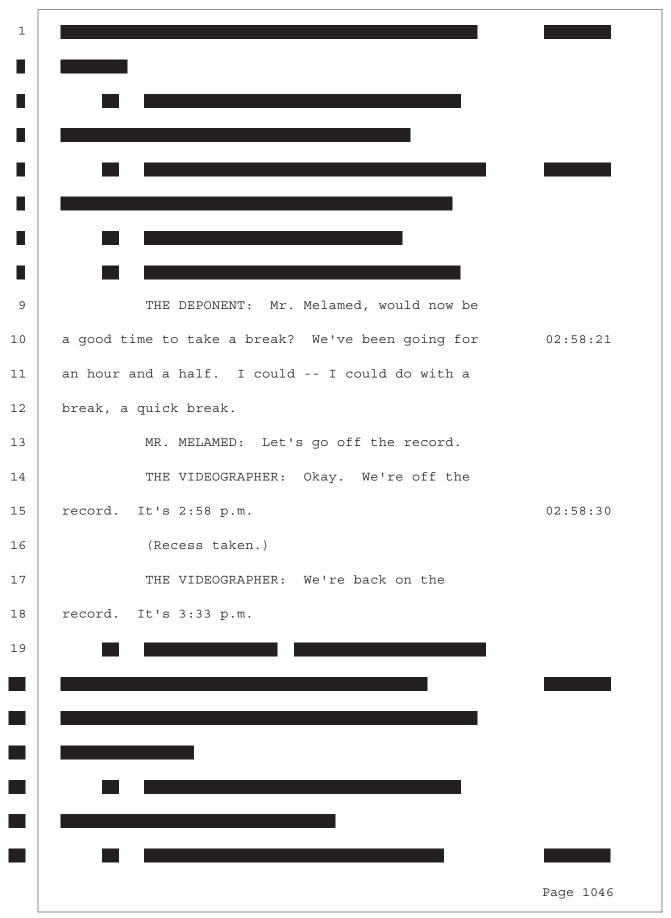
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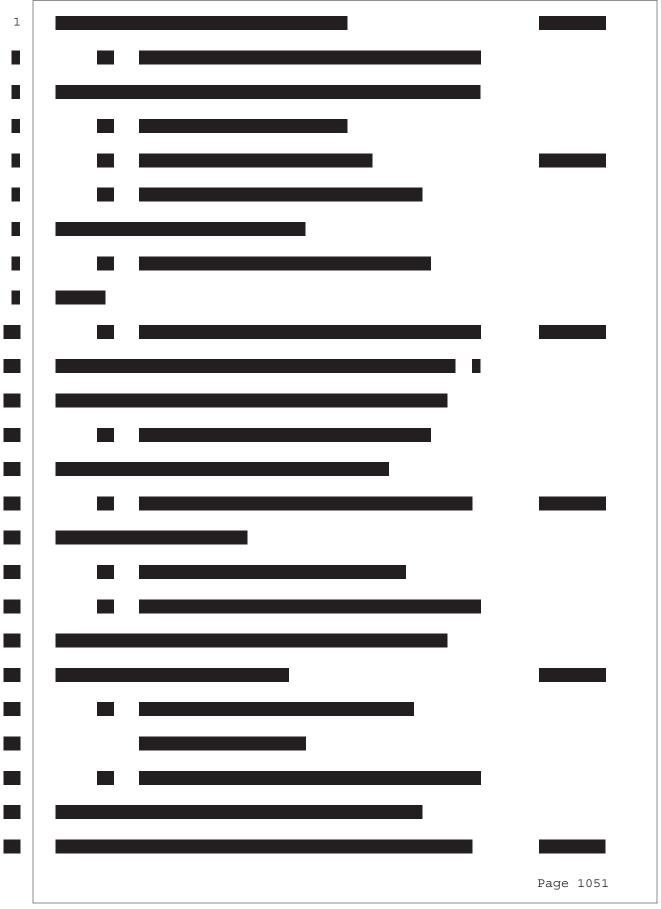
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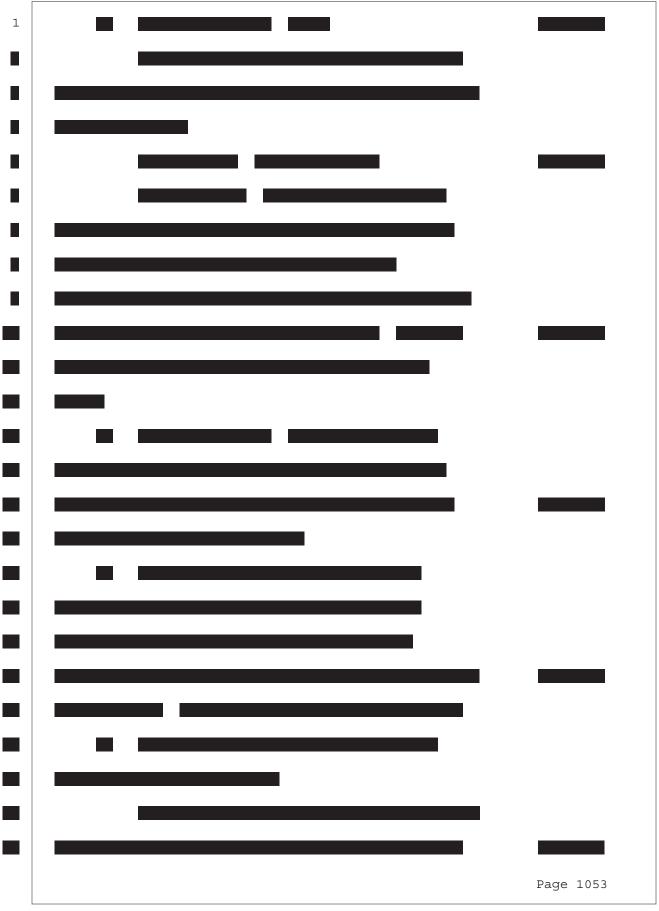
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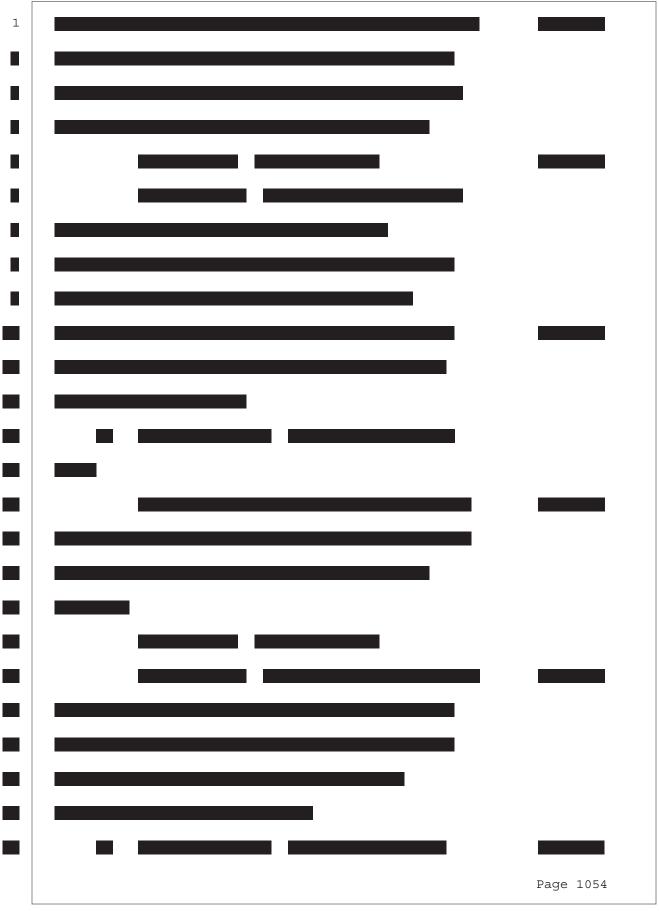
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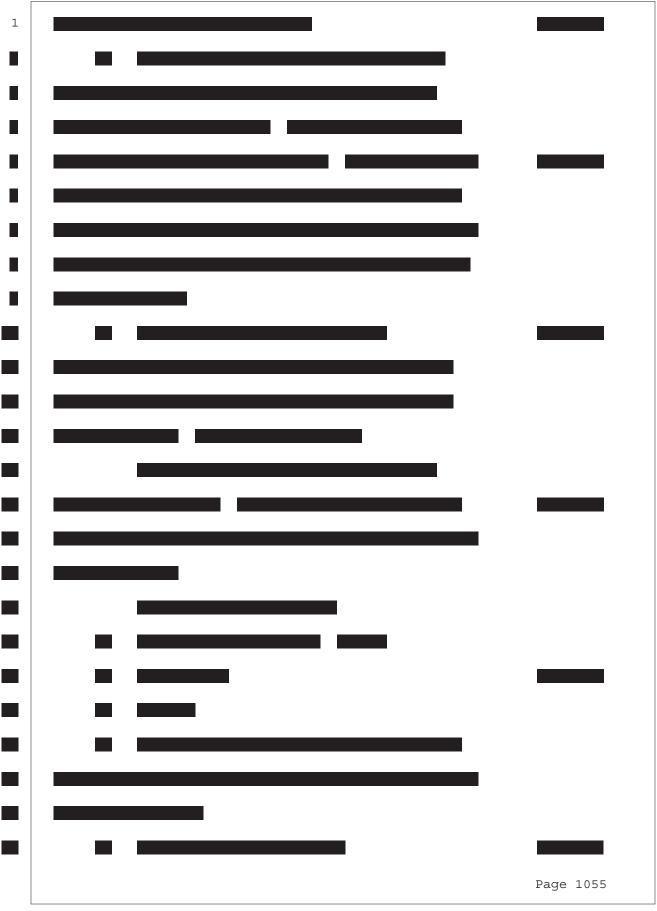
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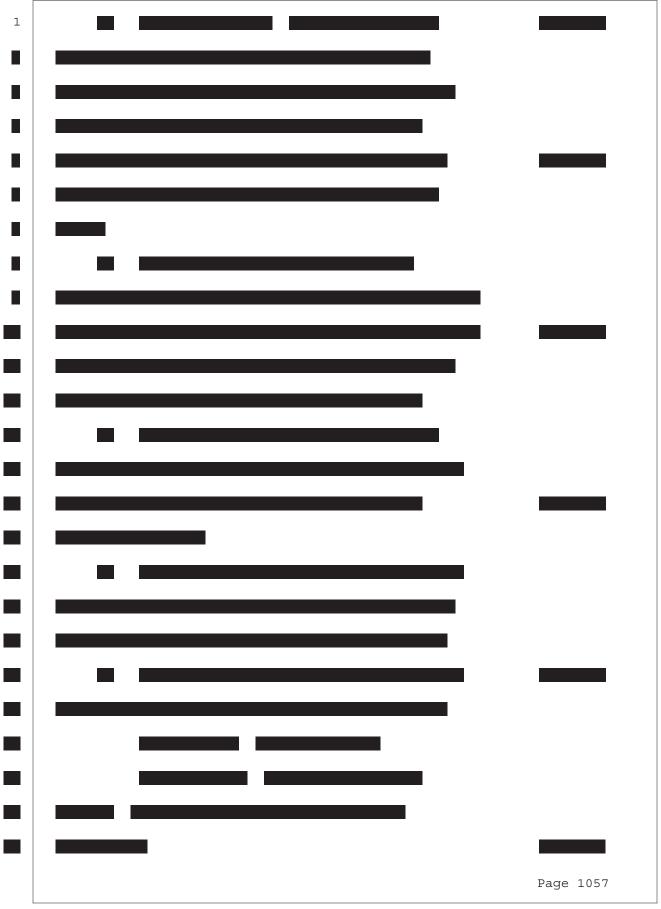
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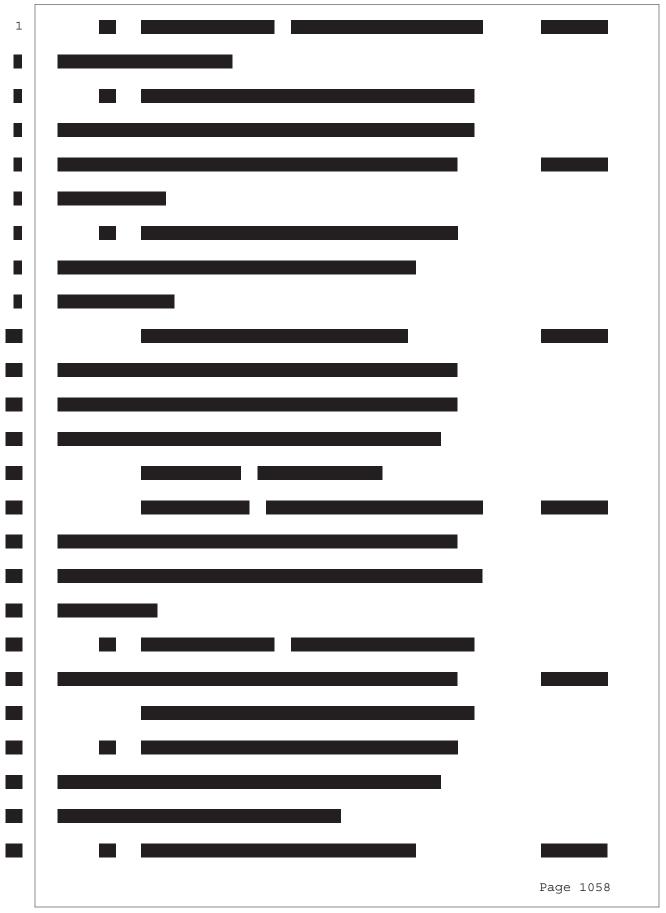
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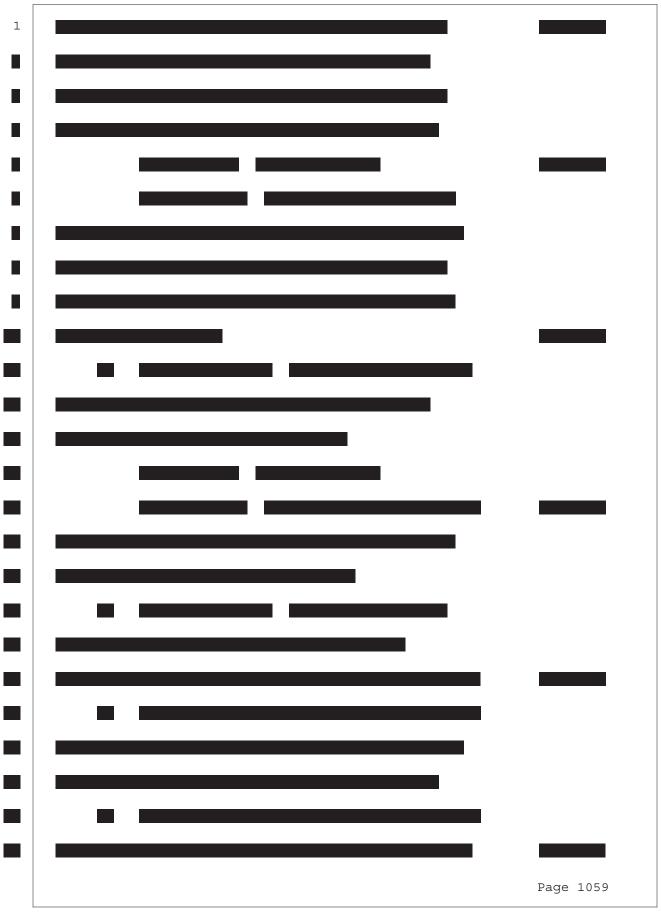
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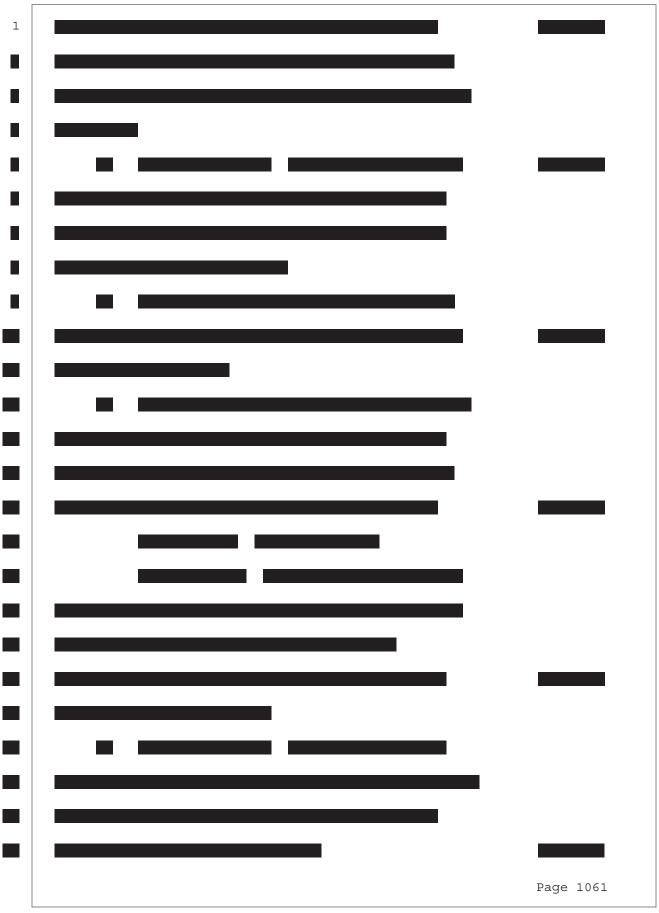
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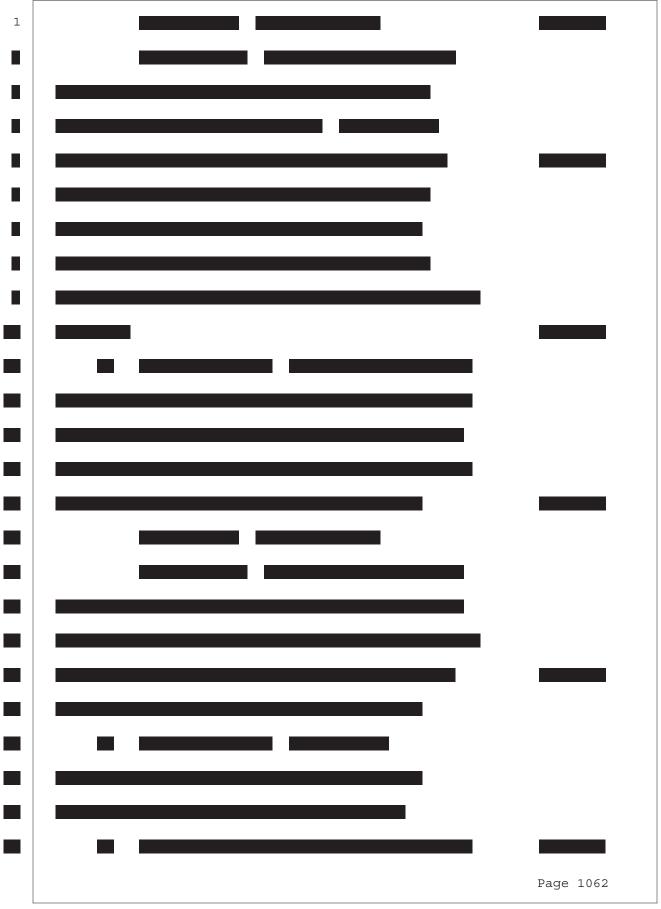
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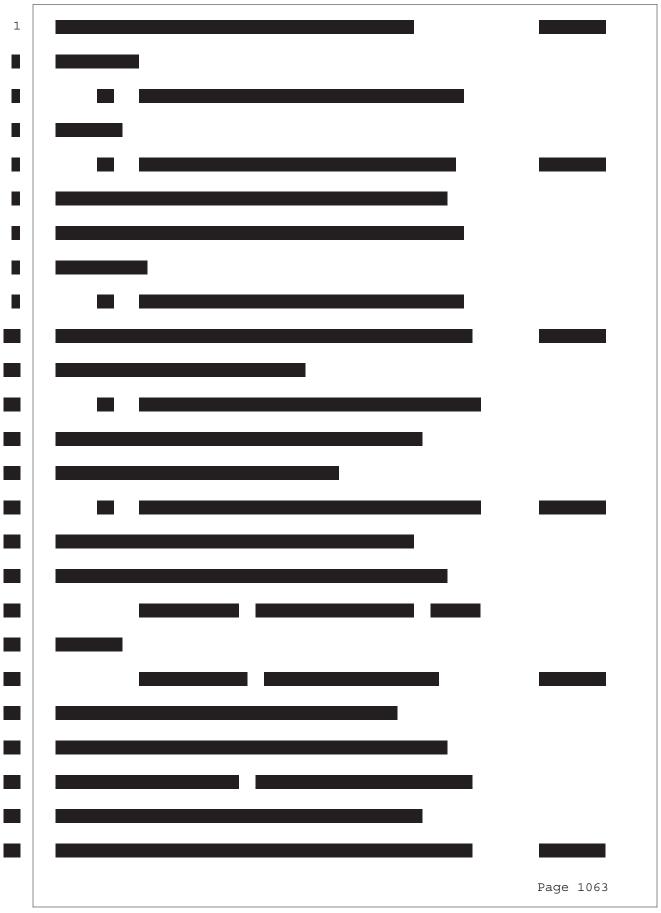
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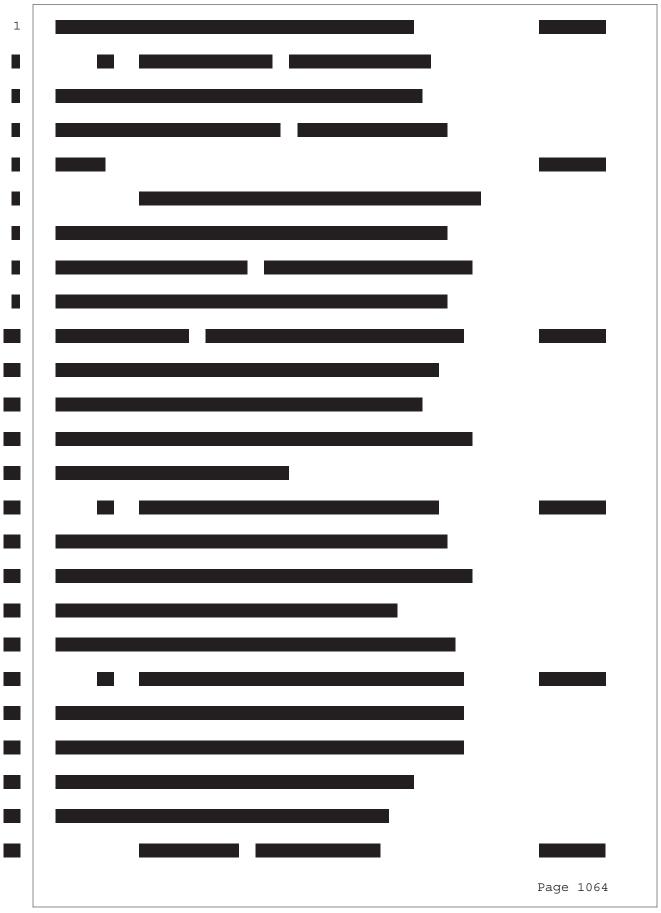
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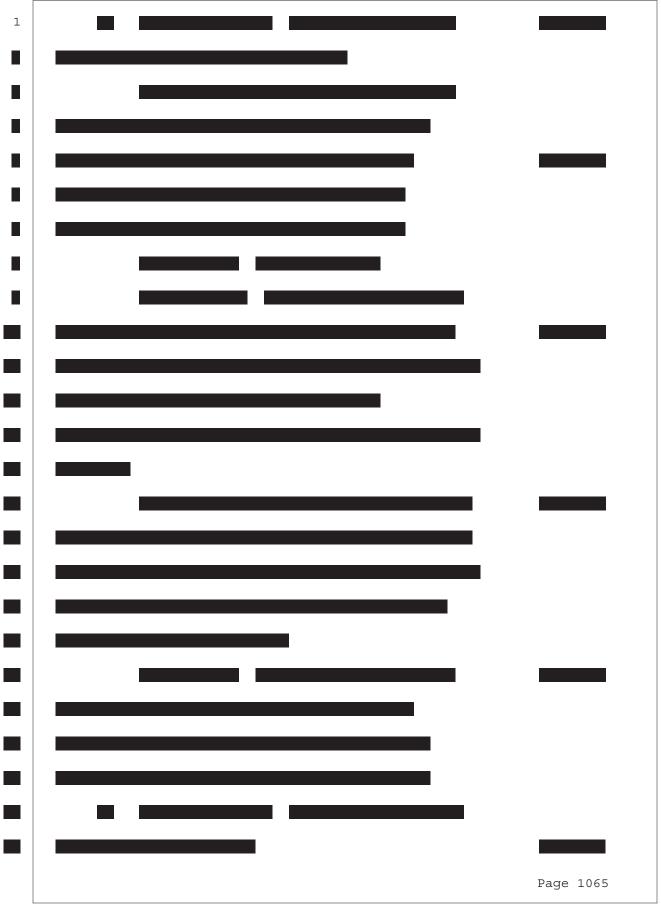
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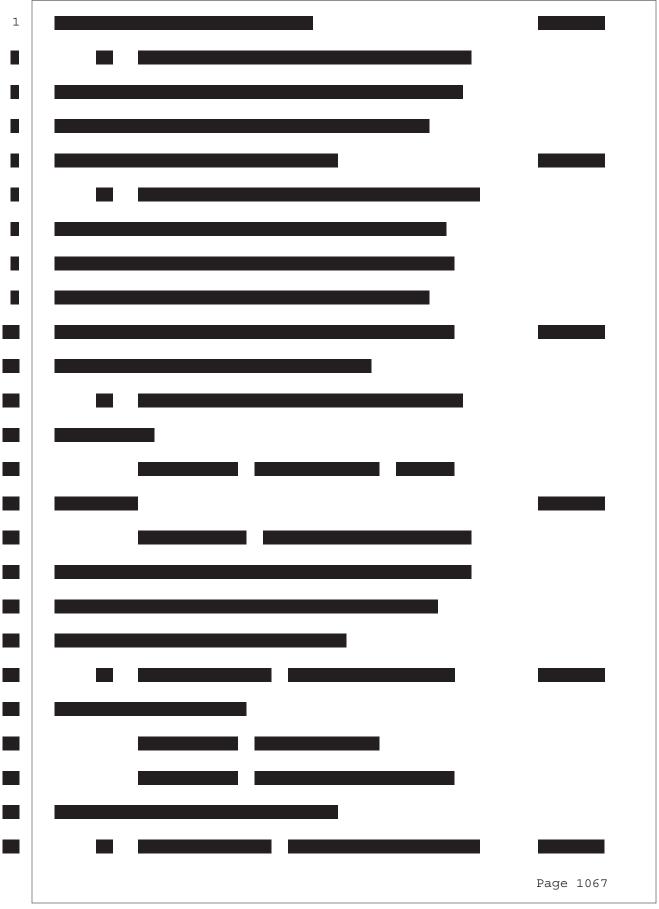
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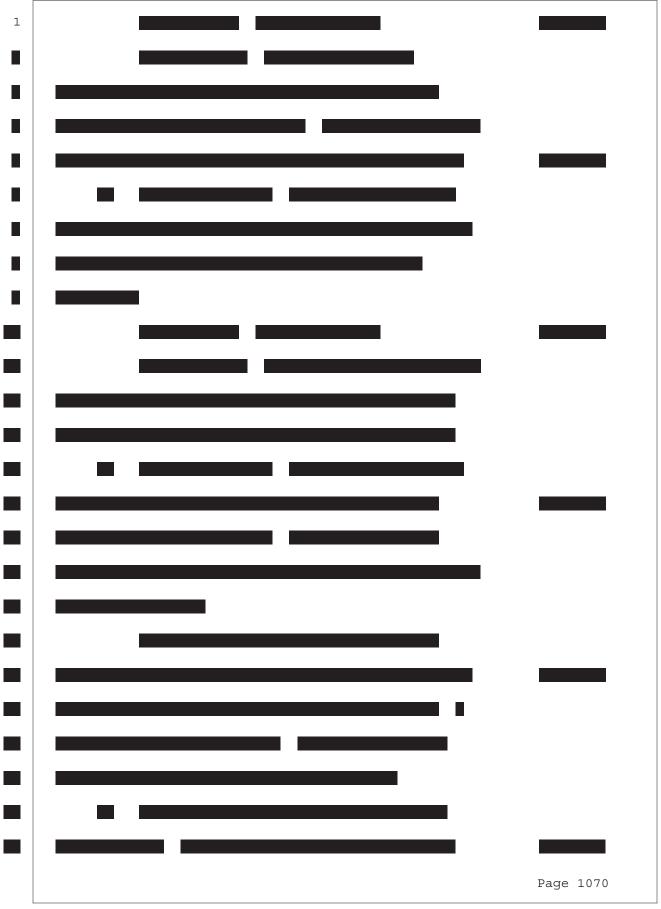
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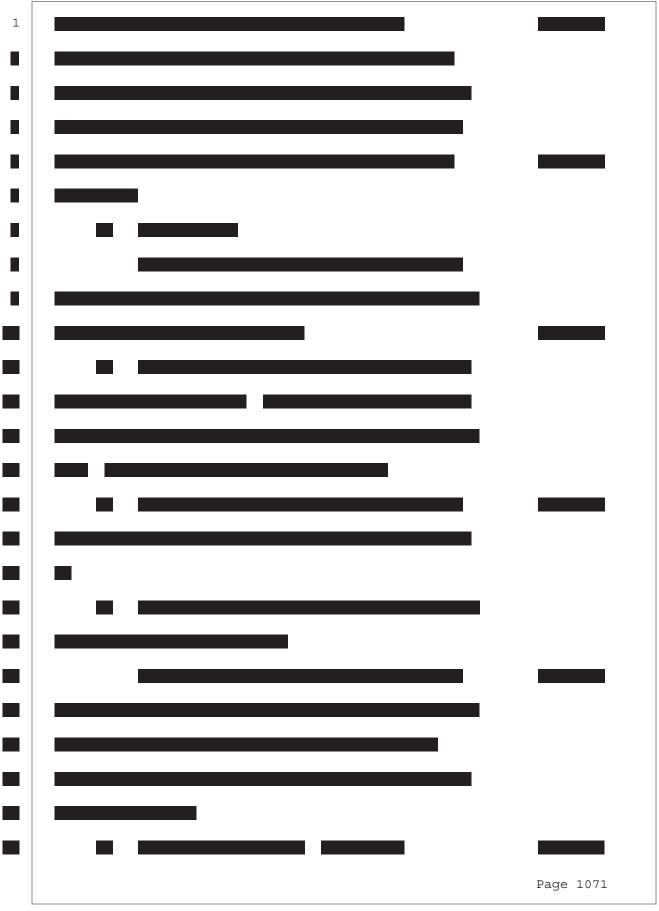
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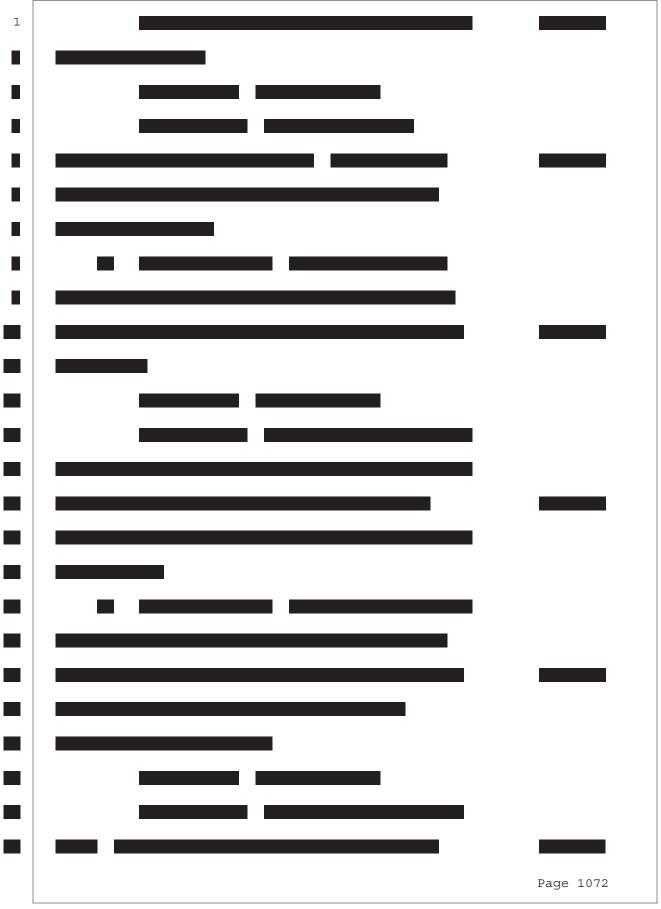
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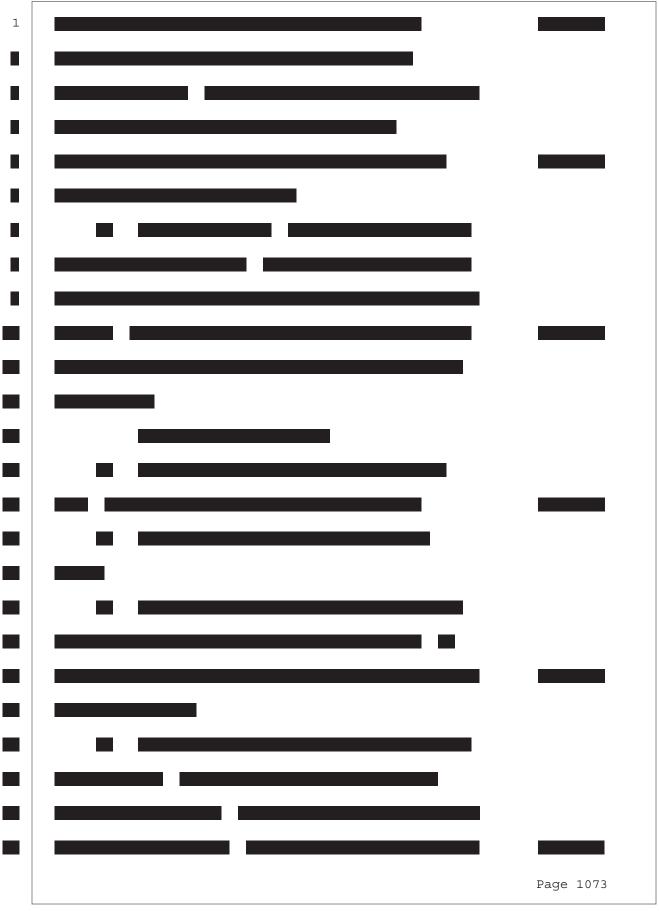
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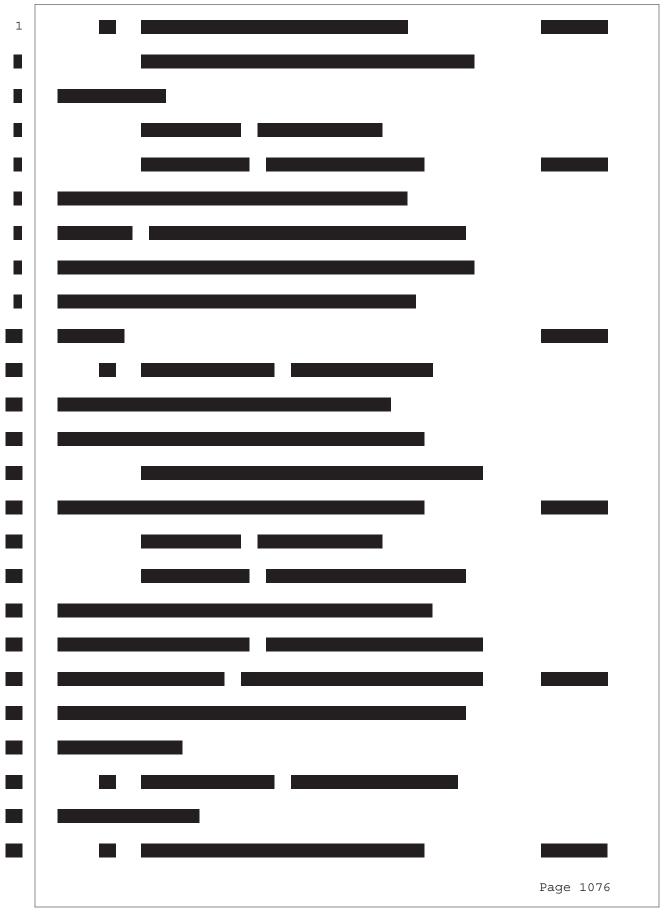
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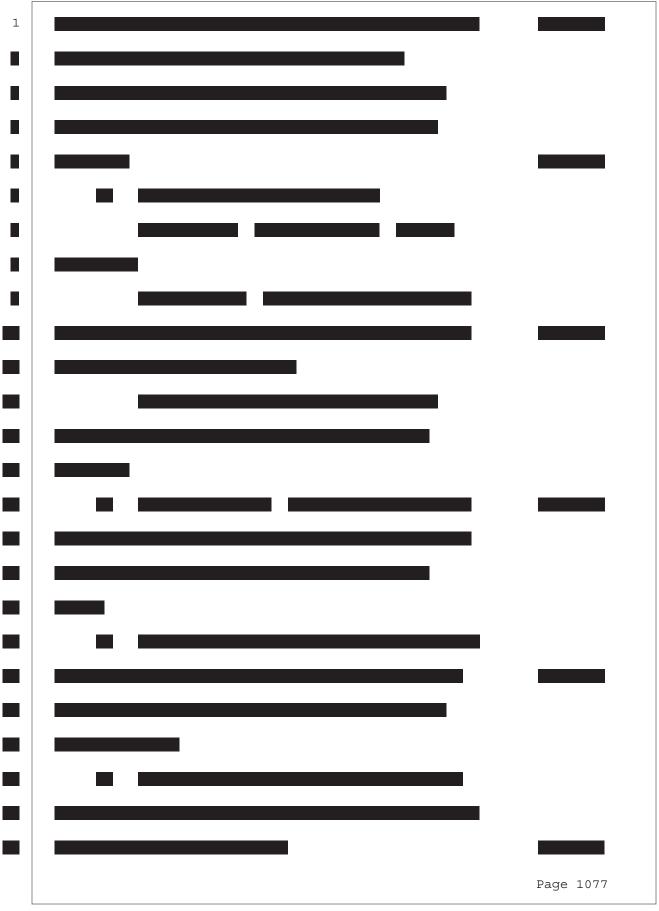
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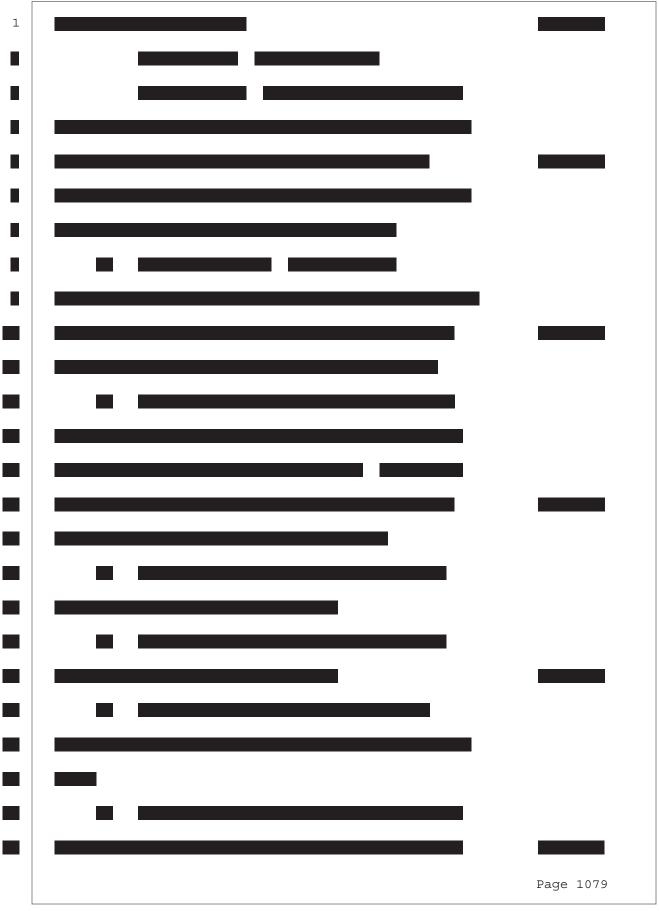
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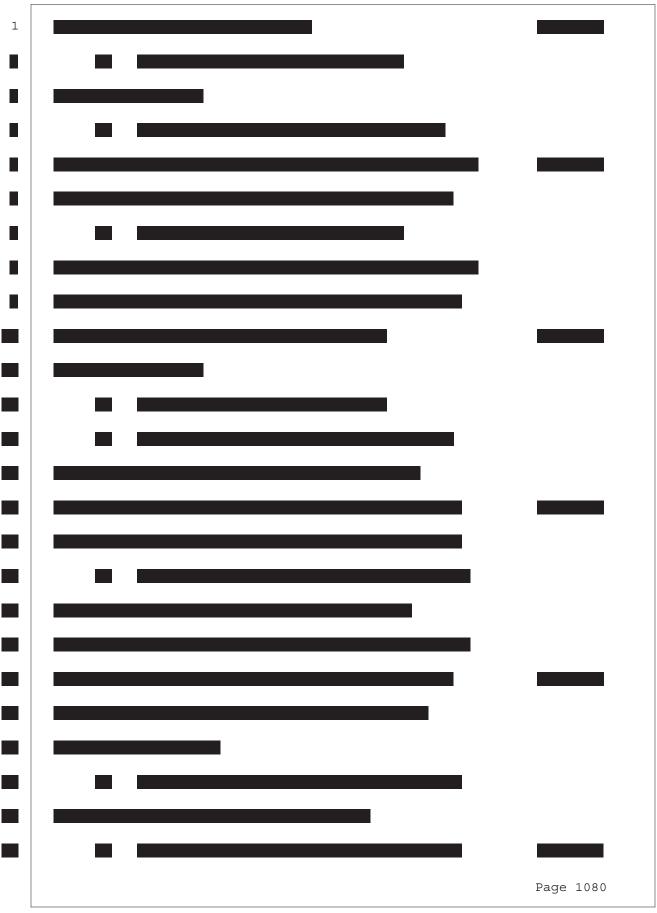
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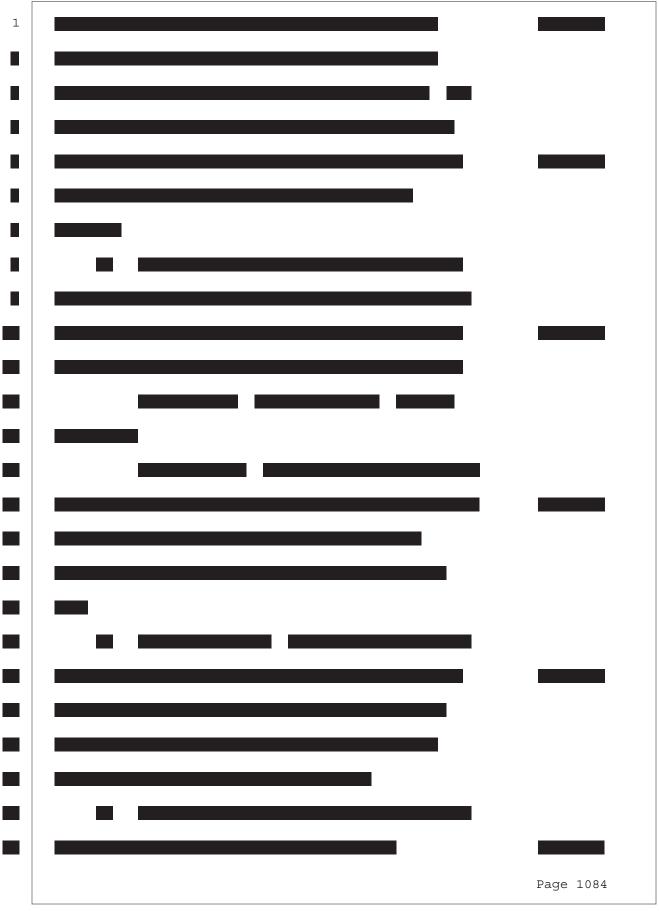
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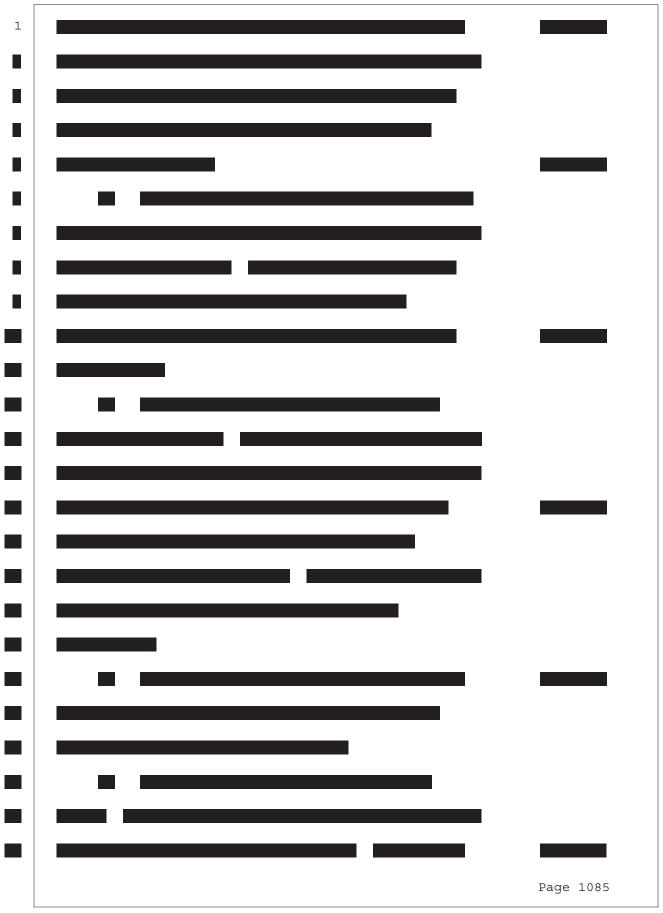
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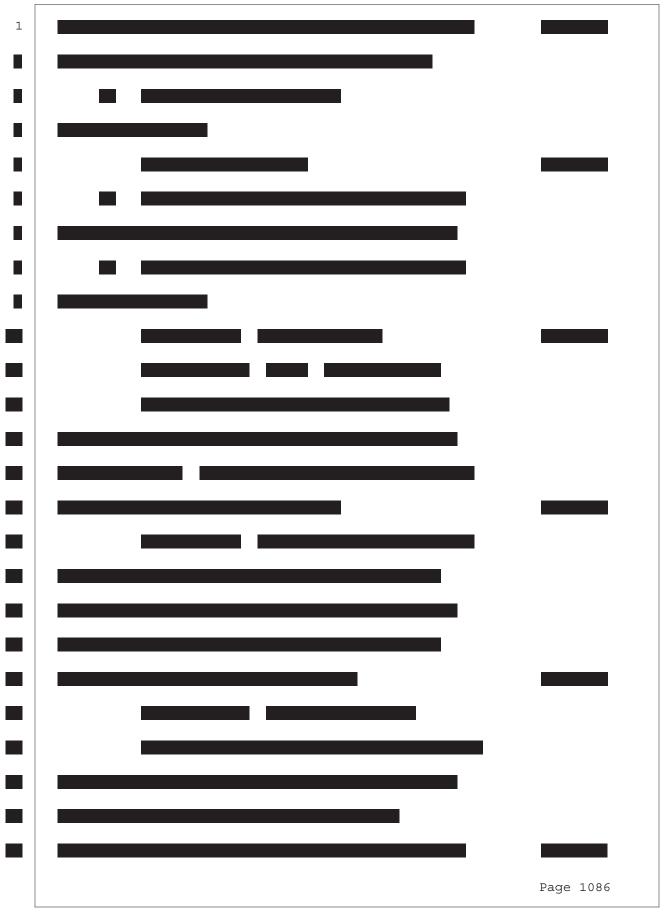
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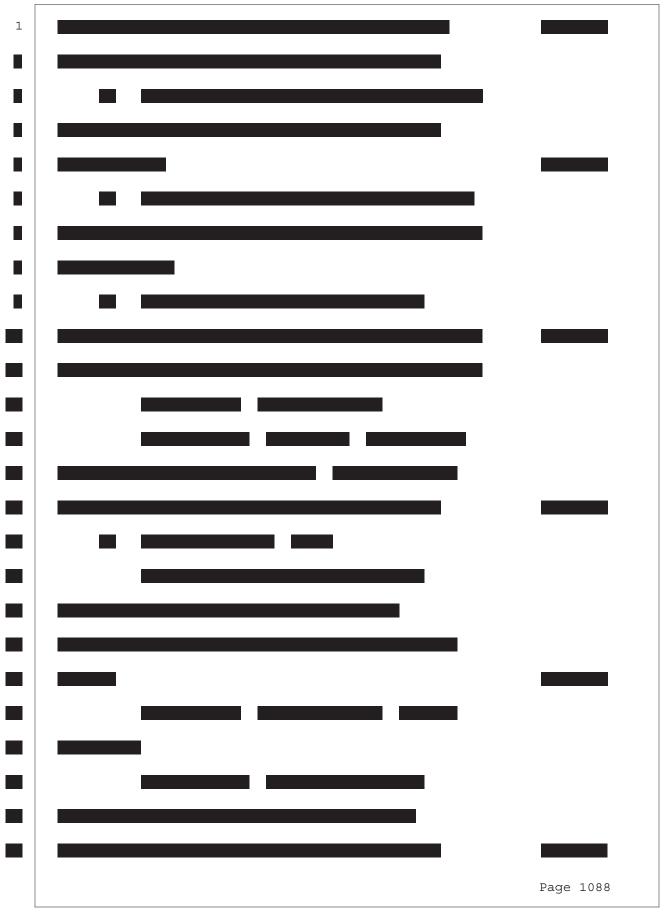
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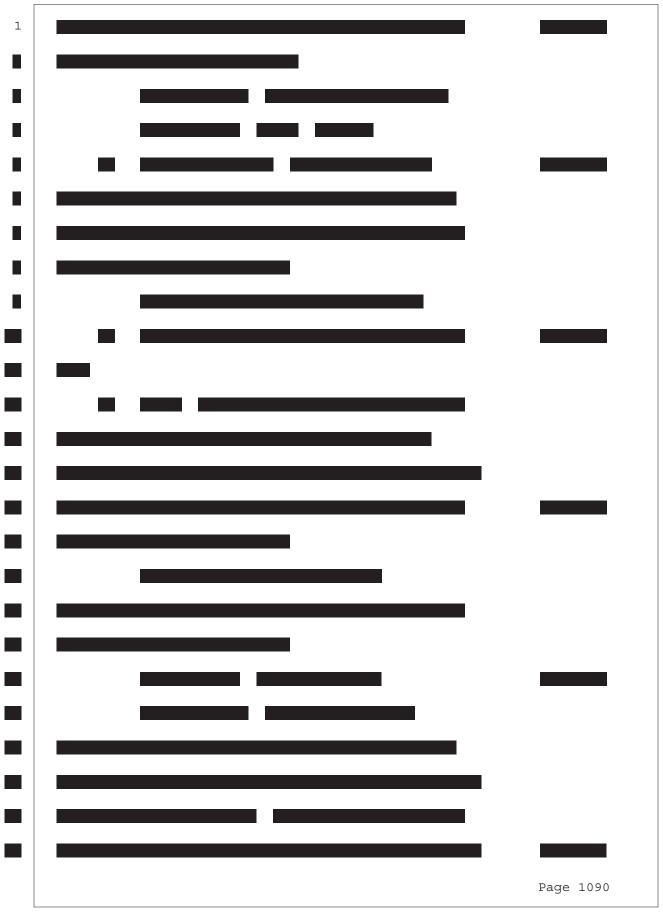
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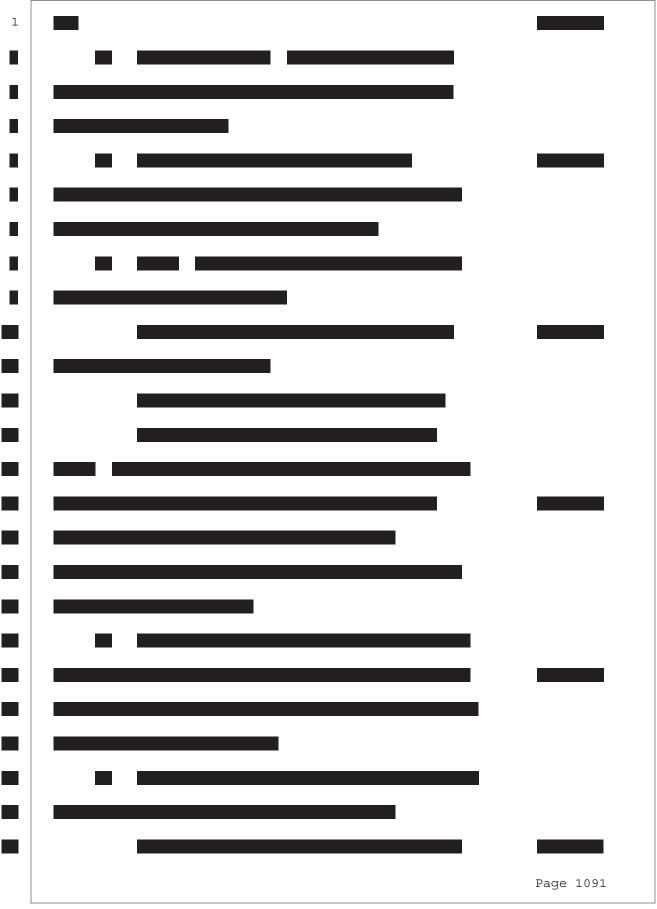
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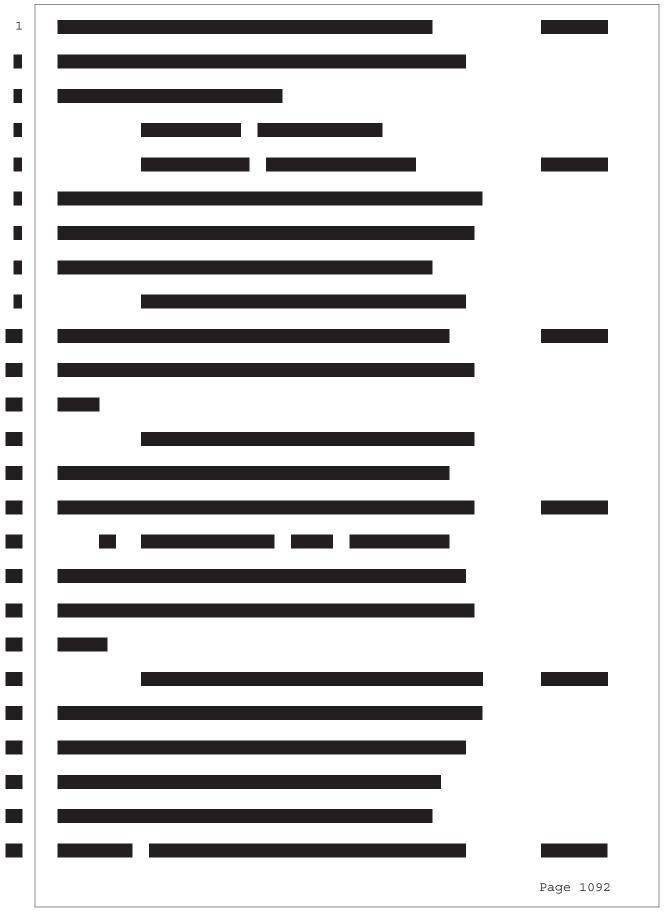
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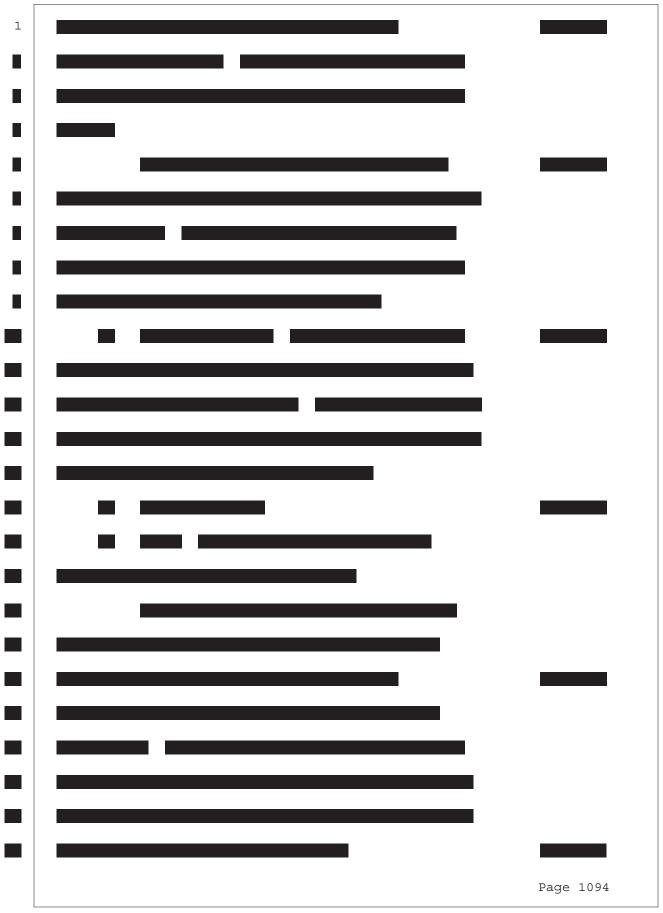
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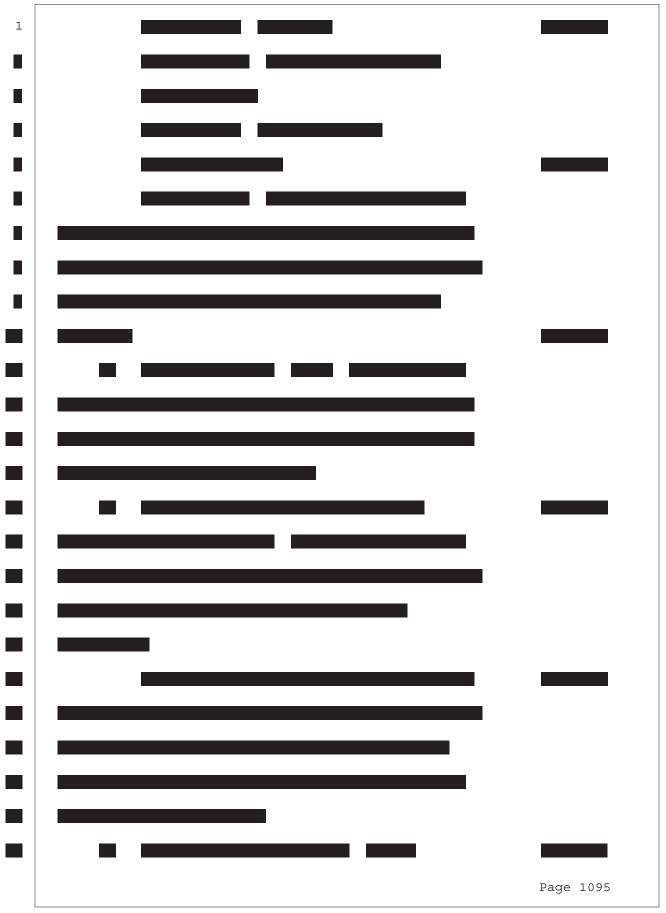
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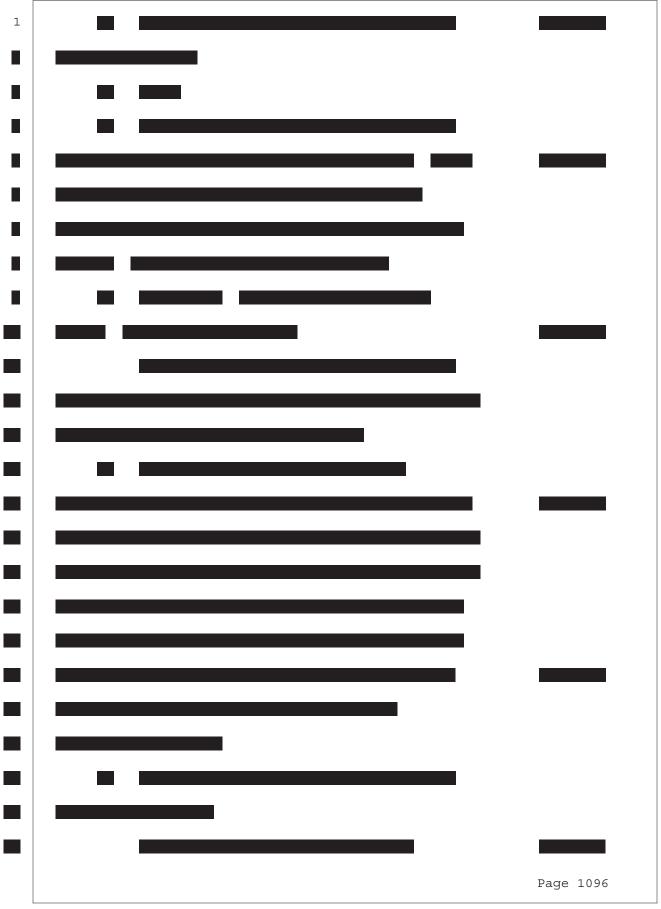
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1	determine whether an app made the API call for	04:59:28
2	which it was granted access by the Capabilities	
3	table?	
4	MR. SCHWING: Object to form.	
5	THE DEPONENT: The Method table	04:59:48
6	identifies API calls made by a specific app. By	
7	"method," some of those methods are gated by a	
8	capability, but other other methods the the	
9	behavior of the response is altered by a	
10	capability, for example.	05:00:12
11	So it's not it's not a reliable way to	
12	determine whether or not an app was accessing data	
13	that was modified by a capability.	
14	Q. (By Mr. Melamed) I understand that. I'm	
15	trying to just understand the request from an app.	05:00:33
16	Where would I go to determine whether,	
17	and if so, how many times an app requested I'm	
18	sorry an app made an API call that for which	
19	it was granted the capability of a capabilities	
20	tool?	05:01:02
21	MR. SCHWING: Object to form.	
22	THE DEPONENT: My understanding is in the	
23	past, certainly there was a way of understanding	
24	whether or not a given app capability pair was	
25	being used, by which I mean, the app was making API	05:01:31
		Page 1097

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1	calls that involved the check of a capability.	05:01:39
2	That information, I recall being	
3	displayed in the in the capability tool at	
4	one at one time in the past. Although precisely	
5	where that data was stored today, again the tool	05:01:57
6	has evolved over time.	
7	But I recall that information being	
8	logged at one point in the past.	
9	Q. (By Mr. Melamed) Do you know when that	
10	information was logged in the capability tool or	05:02:09
11	let me rephrase that.	
12	Do you know when the capabilities tool	
13	stopped logging that information?	
14	A. So it's important to say here that the	
15	capability tool doesn't necessarily log that	05:02:31
16	information. That information is part of the API	
17	code base that runs. I recall that that	
18	information was displayed in the capability tool	
19	starting in in in 2014 or so.	
20	I I don't I I don't know if that	05:02:54
21	information is still displayed in the capability	
22	tool, and I would imagine that it is still being	
23	logged however.	
24	Q. Do you know where the information is	
25	being logged?	05:03:09
		Page 1098

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1	A. It's likely that that information is	05:03:14
2	being stored in in Facebook's data warehouse.	
3	Again, my understanding is that that that is the	
4	kind of information that is used to determine	
5	whether or not an app is actively using a	05:03:28
6	capability.	
7	Q. And by data warehouse, do you mean	
8	"Hive," or something different?	
9	A. I'm referring to Hive when I when I	
10	mean data warehouse.	05:03:40
11	Q. Do you know what table within Hive stores	
12	that tracking information?	
13	A. Do I know which which table sorry,	
14	no, I don't have the specific name of the table	
15	that may or may not contain that information.	05:04:06
16	Q. I'm sorry if you wanted to know	
17	whether such a table existed in Hive and, if so	
18	which table it was, who would you ask?	
19	A. I would ask Mr. Molaro in the first	
20	instance.	05:04:23
21	Q. And you said that though the capabilities	
22	tool did not log that information, it reflected	
23	that information starting in 2014; is that right?	
24	A. I recall the capabilities tool reflecting	
25	some reflection of capability app pair usage in	05:04:49
		Page 1099

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1	around 2014.	05:04:55
2	Q. Do you recall the point at which the	
3	capabilities tool no longer reflected information	
4	regarding capability app pairs? I'm sorry, calls	
5	on capability app pairs?	05:05:14
6	A. So my personal involvement with the	
7	capability tool ended in around 2015. And so	
8	that's the period from 2013 or late 20 2014	
9	to '15 is is what I'm relying on here for my	
10	testimony, so I'm using the phrase "my	05:05:36
11	recollection."	
12	As I my understanding is that it's	
13	likely that the usage of capability checks is is	
14	still being logged. But I I can't confirm which	
15	table, or whether or not or how that information is	05:05:59
16	represented in the capability tool today.	
17	Q. When you left when you stopped using	
18	the capabilities tool in your personal capacity as	
19	a Facebook employee, was the information regarding	
20	whether an app capability pair was still being	05:06:21
21	called, still reflected in the capabilities tool?	
22	A. My my recollection is that that	
23	information was was still reflected in the	
24	capabilities tool. And I'm just being accurate on	
25	the word here. My understanding is that it was	05:06:39
		Page 1100

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1	logging if the capability was checked.	05:06:41
2	Q. What does it mean to to say a	
3	"capability was checked"?	
4	A. My understanding of of how capability	
5	is implemented in the code base is that there is	05:06:56
6	a what's called a capability check, which is	
7	a a function call given an app ID and a	
8	capability as to whether or not the app had access	
9	to the capability, and that's called a capability	
10	check.	05:07:18
11	MR. MELAMED: We can go off the record.	
12	THE VIDEOGRAPHER: Okay. We're off the	
13	record it's 5:07 p.m.	
14	(Recess taken.)	
15	THE VIDEOGRAPHER: We are back on the	05:07:56
16	record. It's 5:21 p.m.	
17	(Exhibit 430 was marked for	
18	identification by the court reporter and is	
19	attached hereto.)	
20	Q. (By Mr. Melamed) Mr. Cross, I've just	05:21:18
21	marked Exhibit 430. It is a message discussion	
22	between Steven Elia, Scott Mellon, Eddie O'Neil,	
23	Drew Lackman, Cathy Huang, Tatyana	
24	SPECIAL MASTER GARRIE: Guys, I'm ready	
25	to roll whenever you guys are.	05:21:34
		Page 1101

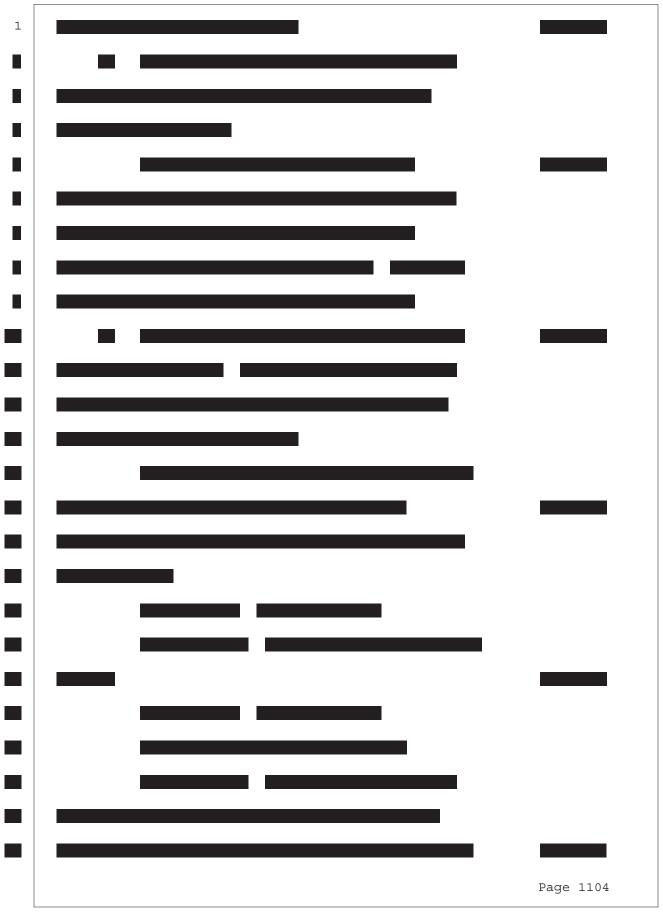
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1	MR. SCHWING: We're we're underway,	05:21:37
2	Special Master Garrie. I don't know if you can	
3	hear us. Yeah, we've started.	
4	SPECIAL MASTER GARRIE: Counsel Melamed.	
5	MR. MELAMED: Yup, we're going. Can you	05:21:49
6	hear?	
7	SPECIAL MASTER GARRIE: Am I talking to	
8	myself.	
9	THE COURT REPORTER: Should we go off the	
10	record?	05:22:01
11	MR. MELAMED: Yeah, let's go off the	
12	record.	
13	THE VIDEOGRAPHER: We're off the record.	
14	(Recess taken.)	
15	THE VIDEOGRAPHER: We're back on the	05:22:16
16	record. It's 5:22 p.m.	
17	MR. MELAMED: So I've just marked	
18	Exhibit 430. It's a message summary. The date on	
19	the document is June 14th, 2018. It includes	
20	Cathy Huang, Steve Elia, Scott Mellon,	05:22:39
21	Eddie O'Neil, Drew Lackman, Cathy Huang sorry,	
22	if I mentioned her twice. Tatyana Poturnak and	
23	Konstantinos Papamiltiadis. And it runs from	
24	Bates number FB-CA-MDL-02898663 through -8668.	
25	Q. (By Mr. Melamed) This message summary	05:23:10
		Page 1102

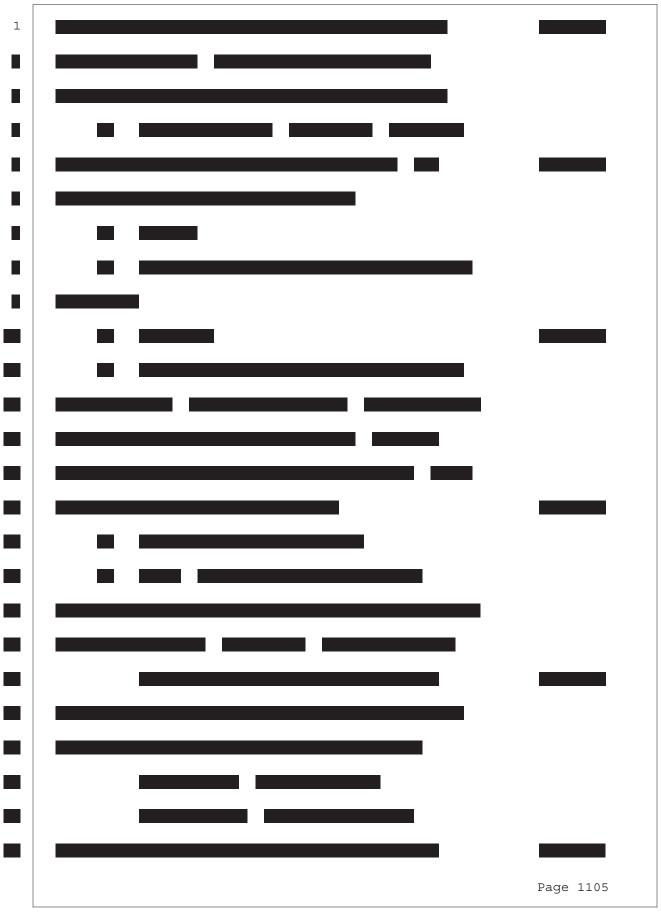
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1	runs chronologically, so from top to bottom.	05:23:12
2	Have you had a chance to look at this	
3	document, Mr. Cross?	
4	A. I saw this document in preparation for	
5	today, but I would appreciate a few minutes just	05:23:31
6	to to refamiliarize myself with it, if that's	
7	okay.	
8	Q. Okay. That's no problem. I'm going to	
9	direct you to a very specific part of it.	
LO		
		Page 1103

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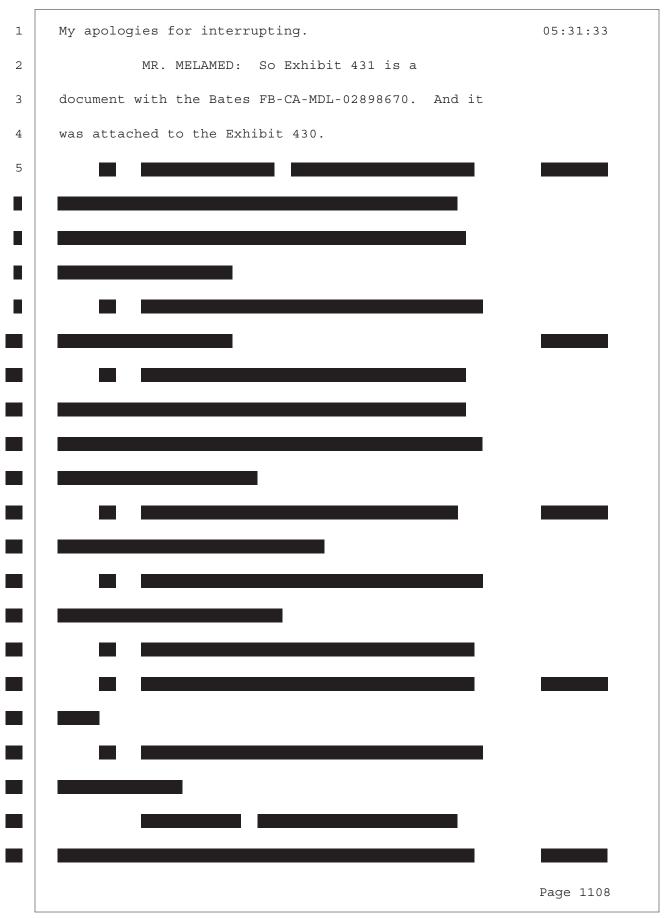
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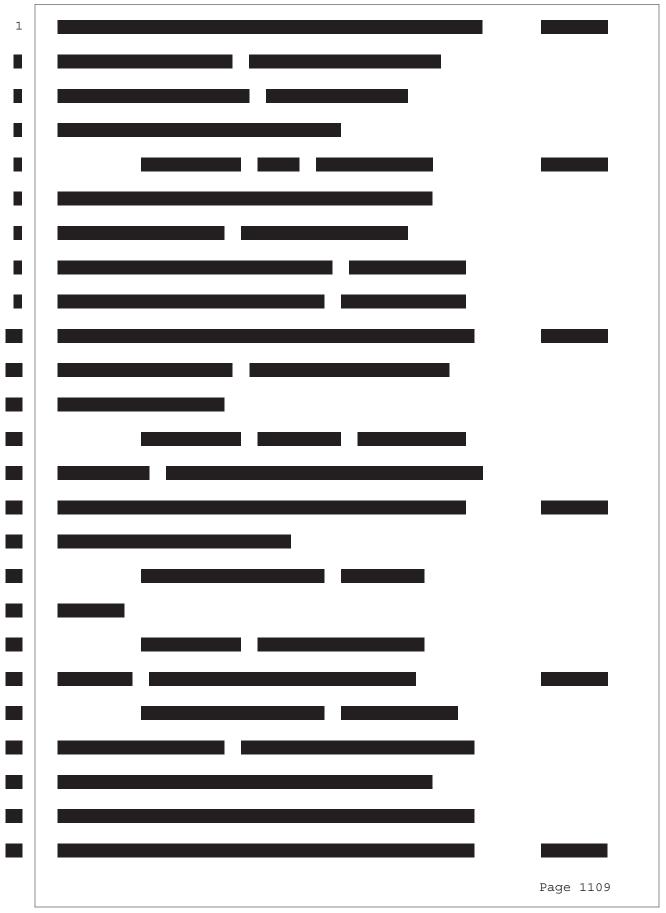
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1	MR. SCHWING: Object to form.	05:29:40
2	THE DEPONENT: I I think I recall	
3	seeing three tabs in in that document. But,	
4	again, I can't be completely sure.	
5	Q. (By Mr. Melamed) Do you know sorry.	05:29:58
6	You said you pulled you went to	
7	that to access that document via Quip; is that	
8	right?	
9	A. Yes. I I I accessed that document	
10	via Quip.	05:30:18
11	(Exhibit 431 was marked for	
12	identification by the court reporter and is	
13	attached hereto.)	
14	MR. MELAMED: I just introduced what's	
15	been marked as Exhibit 3 I'm sorry, 431.	05:31:00
16	Exhibit 431 is a is a spreadsheet FB-CA-MDL	
17	SPECIAL MASTER GARRIE: Where do I	
18	find where I can't find Exhibit 431. I see	
19	Exhibit 428.	
20	MR. MELAMED: I think you're in a	05:31:22
21	different exhibit folder. There is deposition of	
22	Simon Cross 30(b)(6).	
23	SPECIAL MASTER GARRIE: I found it. I	
24	found it. I found it. I was looking at it and I	
25	clicked a different one. There's six folder forms.	05:31:31
		Page 1107

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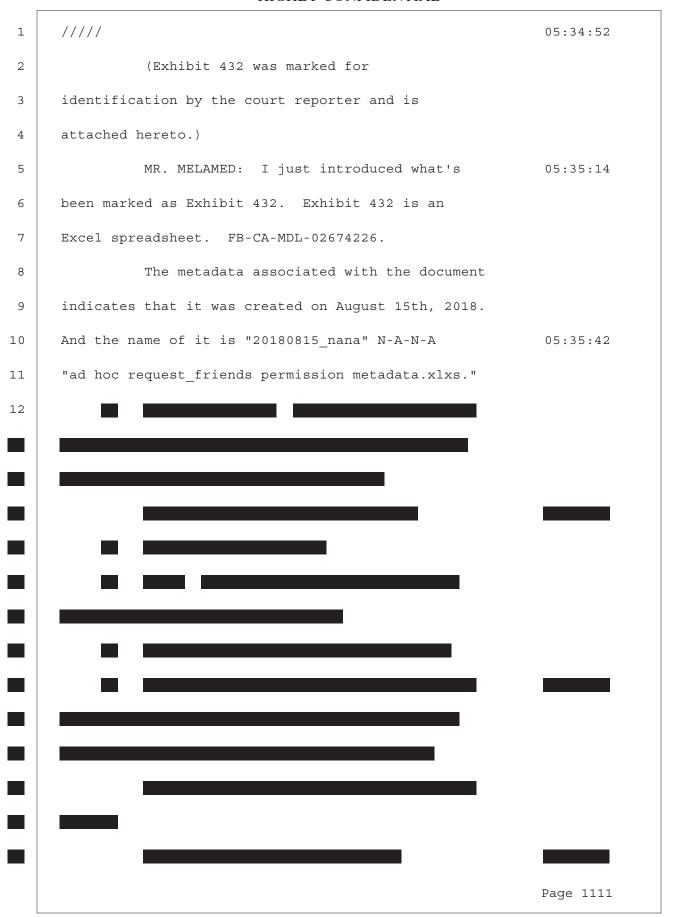
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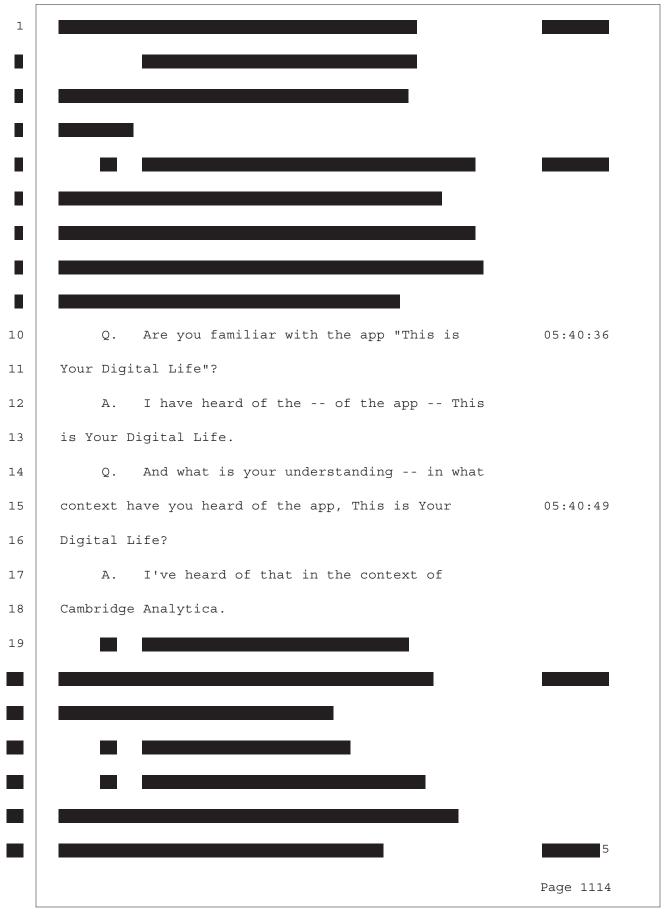
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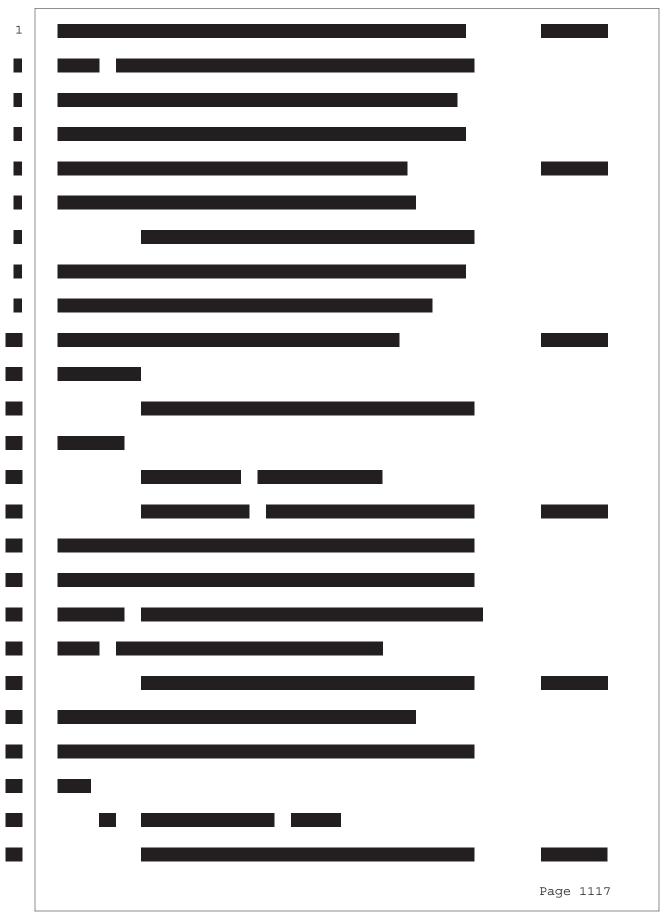
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1	A. Again, I see that in the in the	05:41:31
2	document.	
3	Q. Do you know how many times Facebook users	
4	downloaded This is Your Digital Life? Let me	
5	restate that.	05:41:44
6	Do you know how many Facebook users	
7	signed in to This is Your Digital Life?	
8	MR. SCHWING: Object to scope. Object to	
9	the form of the question.	
10	And, again, I think this was not an	05:41:54
11	exhibit that was identified in June 3rd, email.	
12	THE DEPONENT: I'm not aware of the	
13	number of people that have what was your phrase,	
14	sorry.	
15	Q. (By Mr. Melamed) Number of Facebook	05:42:13
16	users who logged in to This is Your Digital Life?	
17	A. I'm I'm not aware of the number of	
18	Facebook users who logged in to This is Your	
19	Digital Life.	
20	Q. I'll I'll represent to you that	05:42:23
21	Facebook publicly reported approximately 270,000	
22	Facebook users logged in to This is Your Digital	
23	Life.	
24	Does that sound accurate to you? Do you	
25	have any reason to doubt that?	05:42:39
		Page 1115

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_		
1	MR. SCHWING: Object to the form. It's	05:42:40
2	outside the scope of the deposition.	
3	THE DEPONENT: I have no reason to doubt	
4	what you're saying. But, again, I I don't	
5	recall those numbers.	05:42:53
6	Q. (By Mr. Melamed) Okay. I'm just trying	
7	to establish background that would help you	
8	potentially testify regarding the tracking	
9	information in this. So if that's not helpful,	
10	that's okay. And we can move on.	05:43:14
11	(Exhibit 433 was marked for	
12	identification by the court reporter and is	
13	attached hereto.)	
14		
		Page 1116
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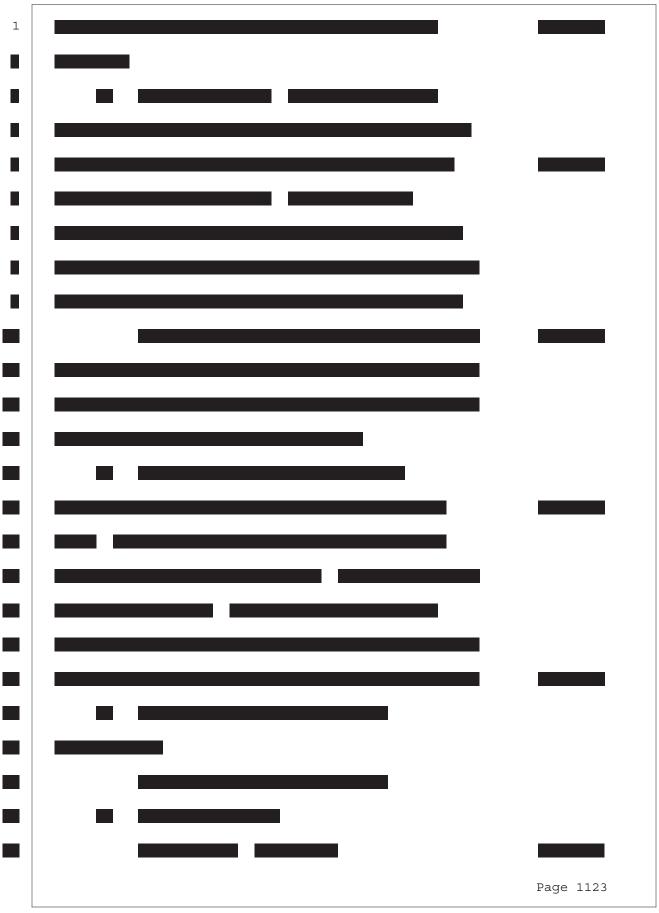
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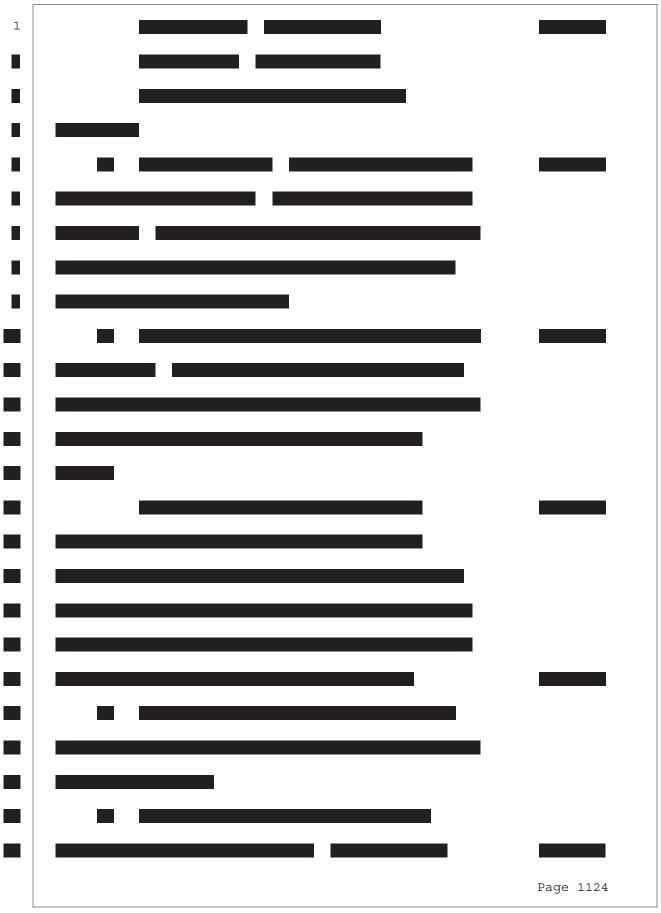
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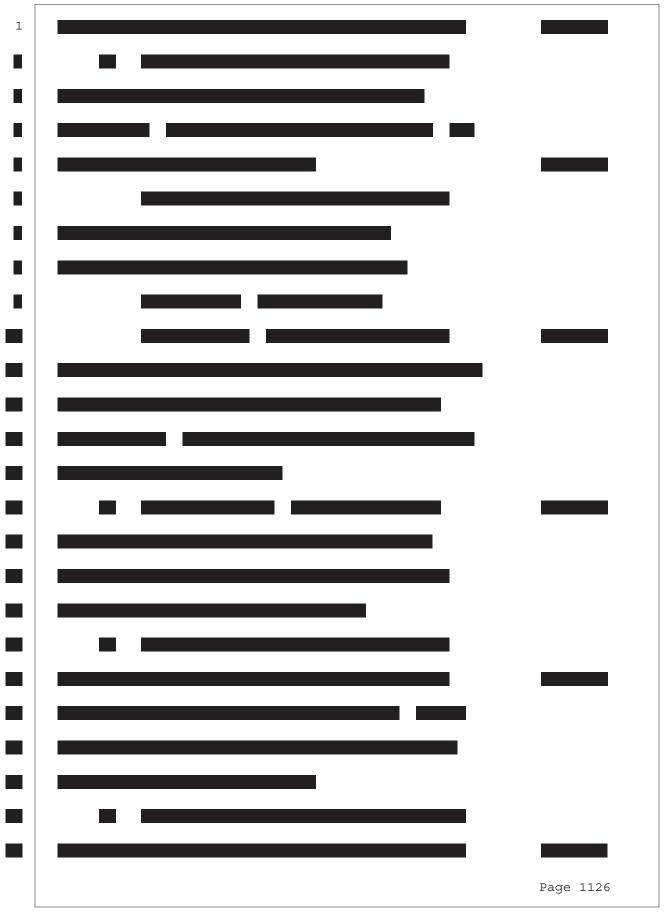
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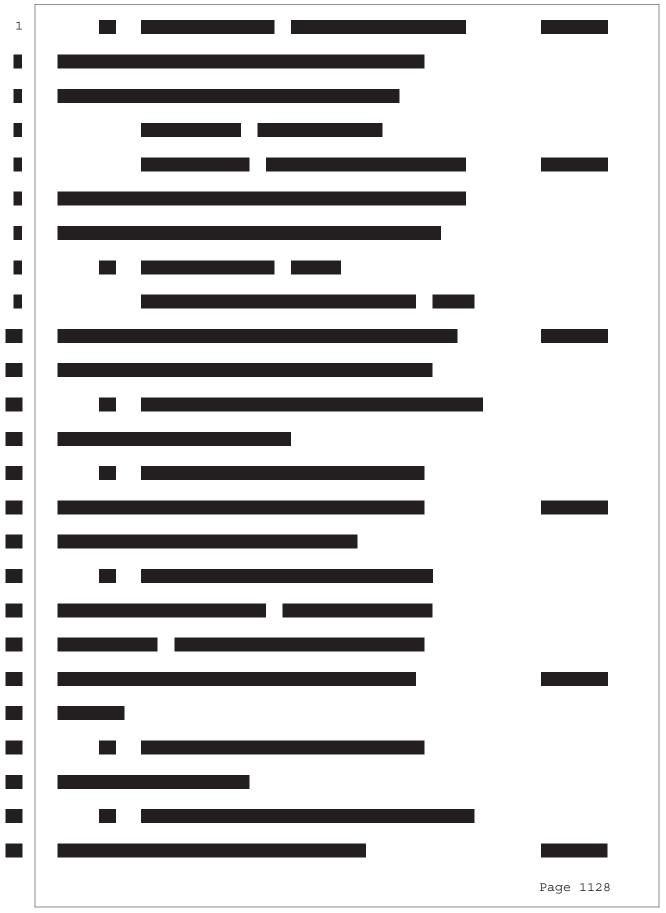
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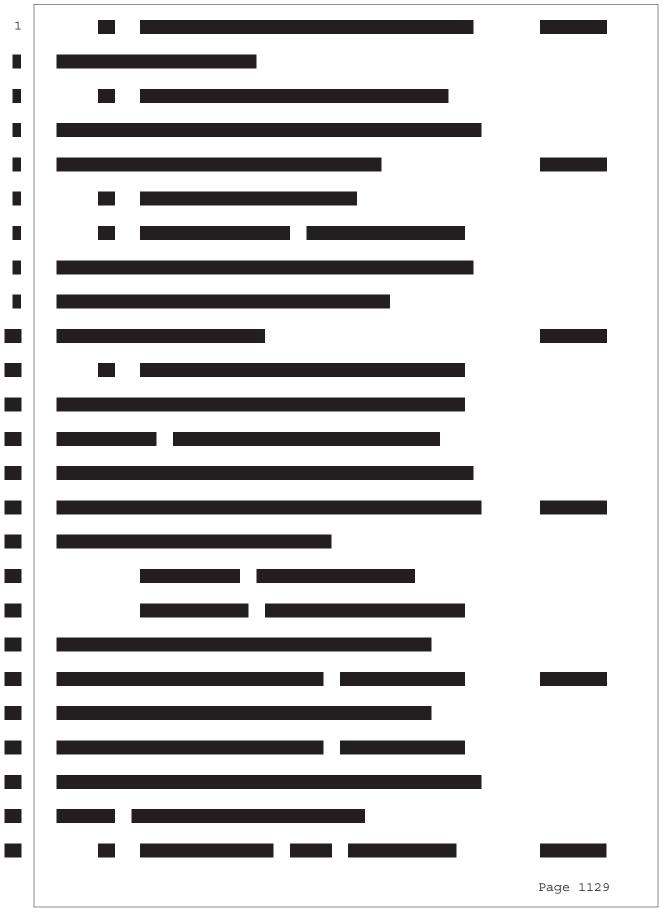
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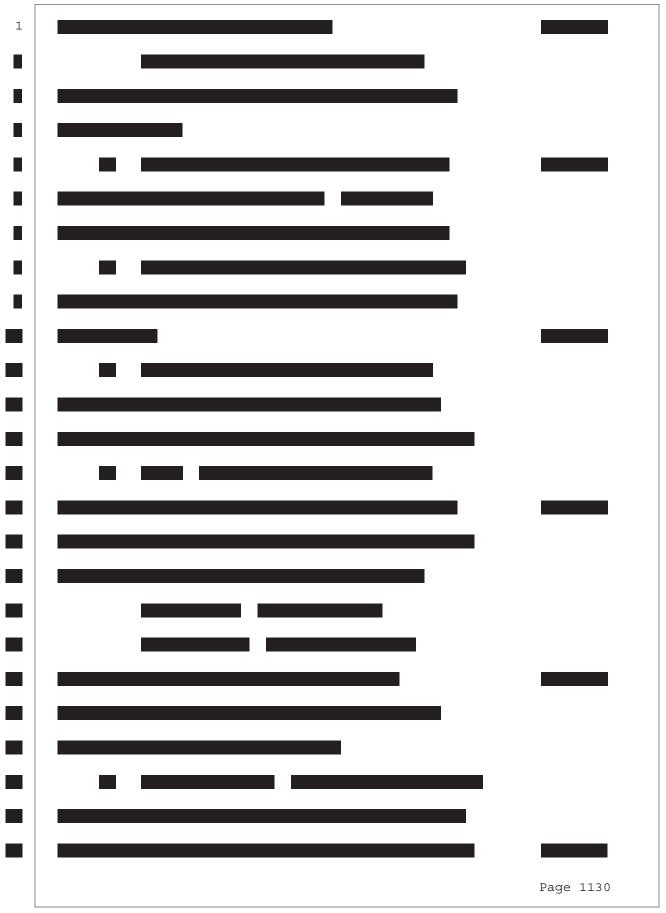
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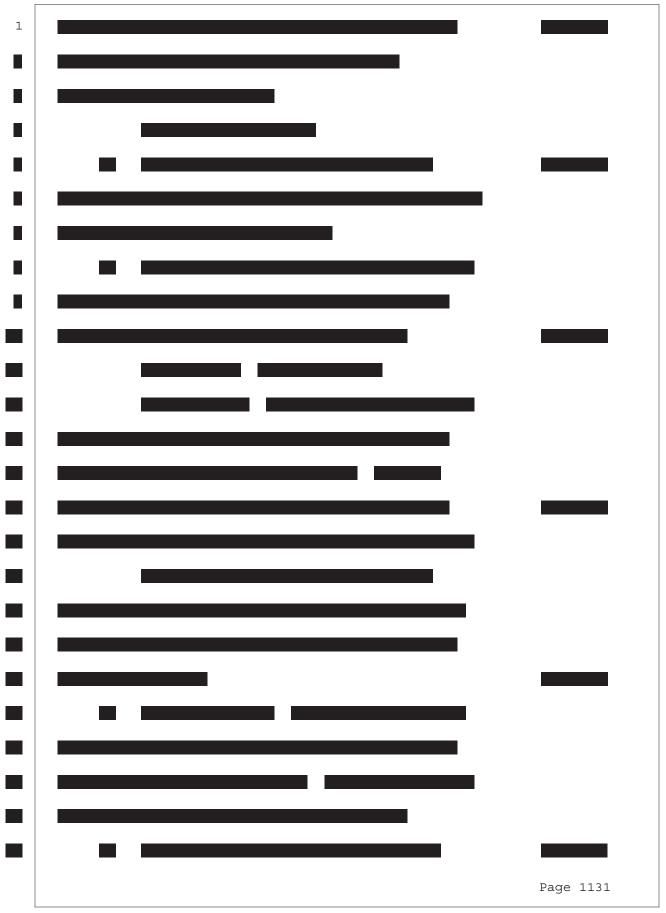
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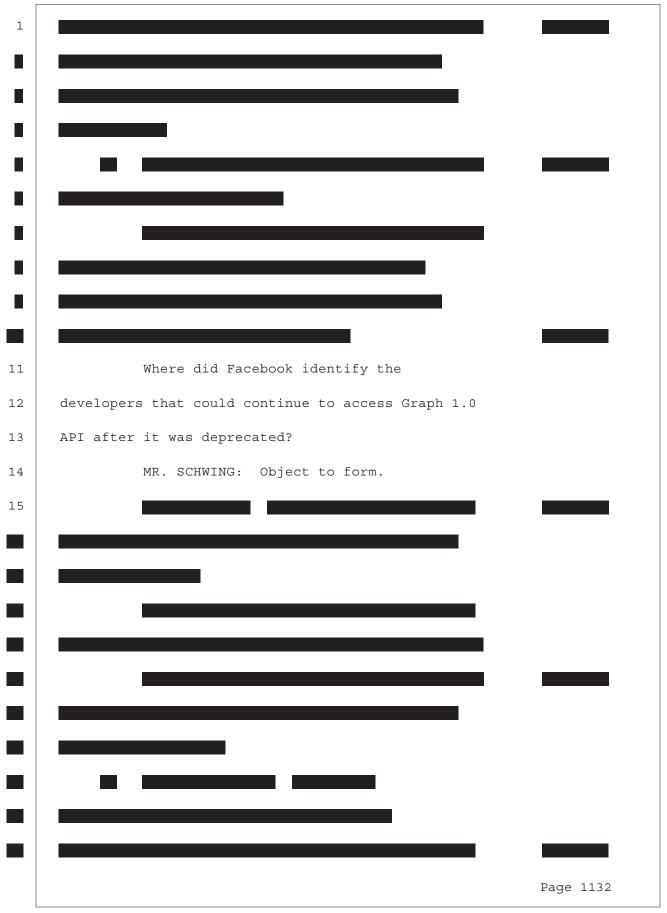
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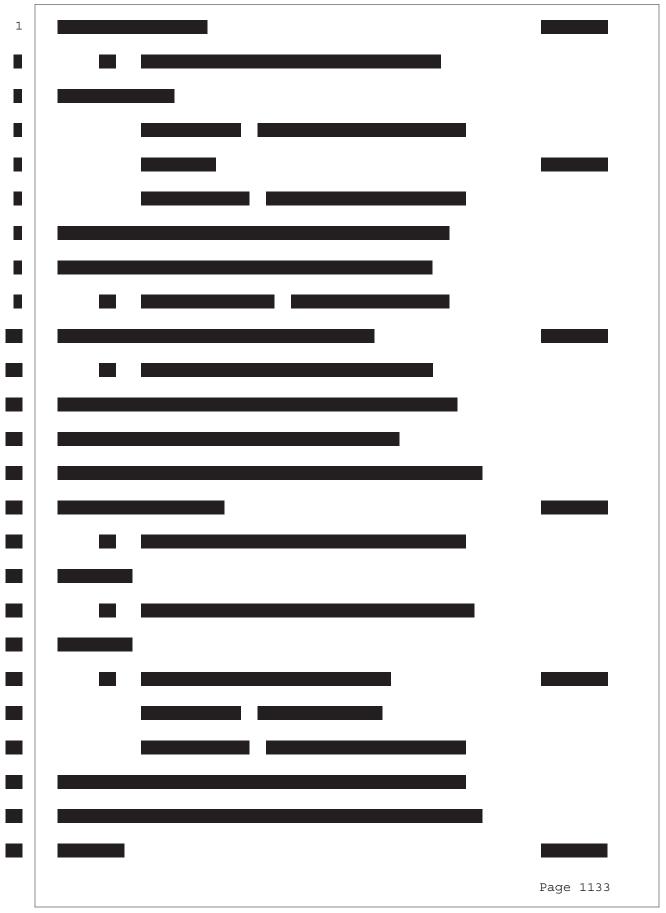
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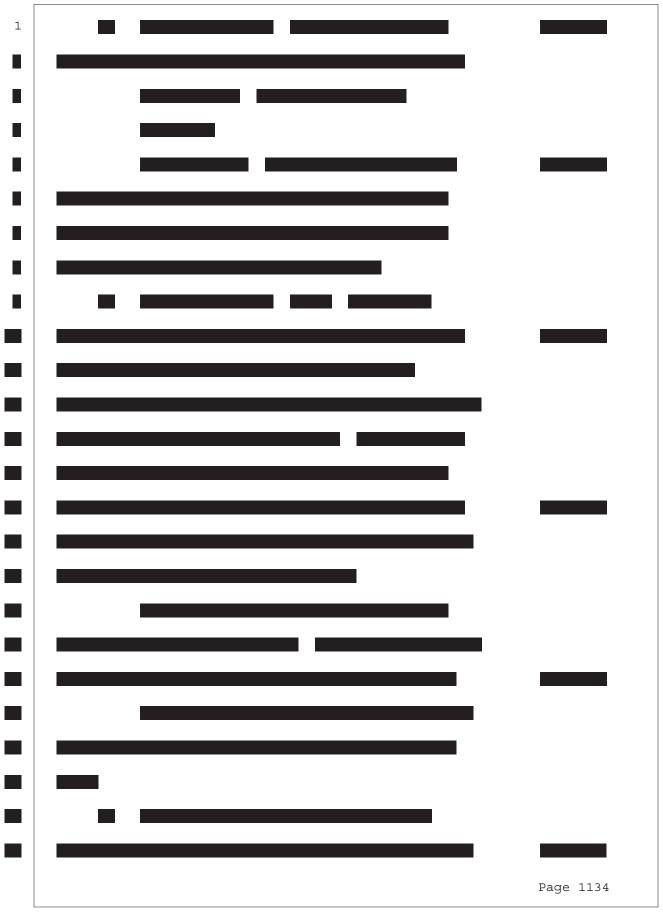
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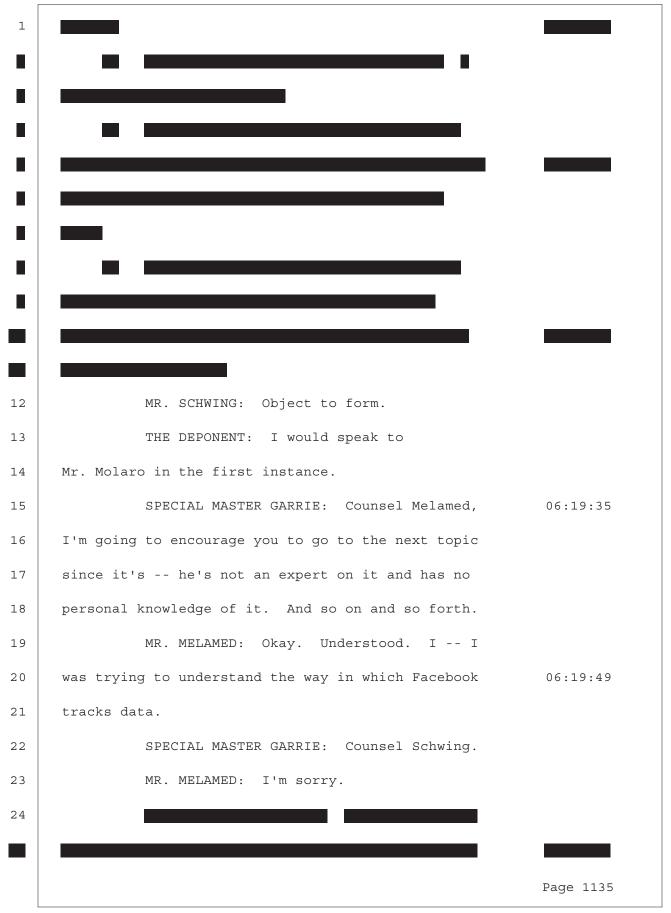
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7	SPECIAL MASTER GARRIE: Just because	
8 just let	me weigh in here, so we heard that. I	
9 just wan	t to set level set here. If the	
.0 informat	ion exists in one source, and it is	06:21:32
accessib	le and provided it's not necessary that all	
.2 sources	need to be searched.	
.3	So I just want to keep that in mind,	
.4 Counsel	Schwing. So before you go down the rabbit	
5 hole, mag	ybe first find out how the systems work	06:21:45
6 together	and what data is in which, so that way we	
.7 don't ha	ve a lot of conversation about something	
8 that may	be encapsulated in something you've	
.9 already	engaged with. So just meet and confer.	
0 And work	that out.	06:21:58
21	But more importantly, let's keep on point	
with Mr.	Cross, Mr. Melamed or Counsel Melamed	
and Coun	sel Schwing, and move to next topic. And	
this is	noted on the record and we'll keep it	
5 going.		06:22:09
		Page 1137

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1	MR. SCHWING: Thank you.	06:22:10
2	MR. MELAMED: Thank you.	
3	Why don't we take a five-minute break.	
4	MR. SCHWING: Okay.	
5	THE VIDEOGRAPHER: Okay. We're off the	06:22:17
6	record. It's 6:22 p.m.	
7	(Recess taken.)	
8	THE VIDEOGRAPHER: We're back on the	
9	record. It's 6:38 p.m.	
10	MR. MELAMED: So thank you for your	06:38:16
11	testimony, Mr. Cross, on topics 2 on behalf of	
12	plaintiffs, we think we're going to need additional	
13	testimony from a Facebook designee about some	
14	questions you were unable to provide answers to.	
15	But we'll deal with that off the record. I just	06:38:32
16	want to establish that on the record.	
17	Otherwise thank you for your time. And I	
18	understand that Mr. Loeser is going to return for	
19	some follow-up questioning regarding topics 6 and	
20	7 after a short break, or after a break.	06:38:48
21	MR. SCHWING: I I this is not the	
22	time or place to argue. So we can talk about that	
23	off offline. Matt, we had four days of of,	
24	you know, five days almost now testimony and we	
25	will meet and confer with you about that, and,	06:39:08
		Page 1138

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1	you know, and try to work through the issues. And	06:39:11
2	as necessary and appropriate work with the	
3	Special Master, and I'm happy to talk to you about	
4	that.	
5	MR. MELAMED: Thank you.	06:39:21
6	We can go off the record.	
7	(Discussion off the stenographic record.)	
8	THE VIDEOGRAPHER: We're off the record.	
9	It's 6:40 p.m.	
10	(Recess taken.)	06:40:21
11	THE VIDEOGRAPHER: We're back on the	
12	record. It's 7:29 p.m.	
13	EXAMINATION	
14	BY MR. LOESER:	
15	Q. It is still good morning for me,	07:37:08
16	Mr. Cross, but it's good evening for you.	
17	And I have some questions. Hopefully it	
18	won't take too long so we'll jump in and get	
19	started.	
20	Are you able to continue testifying now?	07:37:26
21	A. Yeah, let's keep going.	
22	Q. Okay. Mr. Cross, in 2018 after	
23	MR. SCHWING: I'm sorry to interrupt you,	
24	Mr. Loeser, it's just before we we can either do	
25	this now or later. Before the the testimony	07:37:41
		Page 1139

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			_
1	started back up, I indicated that Mr. Cross wanted	07:37:44	
2	to clarify something in his testimony. I'll leave		
3	it to you as to whether or not you want to do that		
4	now or in a little bit.		
5	MR. LOESER: If it's okay with you, I'm	07:37:55	
6	fine if you want to just ask him for his		
7	clarification on on a redirect type basis. That		
8	I think probably works best for the record. If		
9	that works for you.		
10	MR. SCHWING: Sure. That's fine. Thank	07:38:08	
11	you.		
12	Q. (By Mr. Loeser) Mr. Cross, in 2018 after		
13	the Cambridge Analytica scandal broke, Facebook		
14	received negative press about its data sharing		
15	practices with apps and partners, correct?	07:38:20	
16	MR. SCHWING: Outside the scope. Object		
17	to form.		
18	THE DEPONENT: I recall a number of		
19	articles about Cambridge Analytica.		
20	Q. (By Mr. Loeser) And were any of those	07:38:36	
21	articles would you consider any of those		
22	articles as having been negative press about		
23	Facebook's data sharing practices?		
24	MR. SCHWING: Same objections.		
25	THE DEPONENT: I recall concerns being	07:38:52	
		Page 1140	

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1	raised in in the media regarding regarding	07:38:54
2	the Cambridge Analytica situation, yes.	
3	Q. (By Mr. Loeser) And Mr. Cross, after the	
4	Cambridge Analytica scandal broke, Facebook sought	
5	to sort out and identify which apps and partners	07:39:07
6	continued to have access to friends data through	
7	whitelist; is that correct?	
8	MR. SCHWING: Object to form.	
9	THE DEPONENT: After Cambridge Analytica	
10	the company the company undertook a number of	07:39:24
11	efforts to to understand and identify	
12	applications that had access to information.	
13	Q. (By Mr. Loeser) And sir, that	
14	investigation looked specifically into applications	
15	that had access to information through whitelists,	07:39:43
16	right?	
17	MR. SCHWING: Outside the scope.	
18	THE DEPONENT: My understanding is that	
19	the the work that was done included looking at	
20	the whitelists. But it also included other	07:40:01
21	areas areas of inquiry too.	
22	Q. (By Mr. Loeser) And, Mr. Cross, isn't it	
23	the case that Facebook struggled to identify all of	
24	the apps and partners that had access to friends	
25	data through whitelist?	07:40:17
		Page 1141

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1	MR. SCHWING: Vague.	07:40:20
2	THE DEPONENT: The team working on	
3	this this work faced faced a number of	
4	challenges in pulling together a complete	
5	understanding. And they they worked hard to do	07:40:37
6	so.	
7	Q. (By Mr. Loeser) And Mr. Cross, what were	
8	the challenges that the team investigating	
9	whitelists and specifically whitelists that	
10	provided access to friends database?	07:40:51
11	MR. SCHWING: Object to form. Outside	
12	the scope.	
13	THE DEPONENT: So I wasn't I wasn't	
14	there at the time, I'm afraid. But sorry. It's	
15	hard to comment precisely on all of the challenges	07:41:10
16	that that were faced at the time.	
17	Q. (By Mr. Loeser) Mr. Cross, can you	
18	testify as to any of the challenges that were faced	
19	at the time?	
20	A. So there were a number of different	07:41:30
21	whitelists in place, and different mechanisms for	
22	API access. And the team had to pull together	
23	to and did, in order to like fully understand	
24	API access at the time.	
25	Q. And, Mr. Cross, was one of the challenges	07:41:58
		Page 1142

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1	faced by the team trying to identify all of the	07:42:03
2	apps and parties that were whitelisted, the result	
3	of how records were kept at Facebook of	
4	whitelisting?	
5	MR. SCHWING: Object to form.	07:42:17
6	THE DEPONENT: I can't say whether or not	
7	that's the the challenges that the that the	
8	team involved were were working through.	
9	Q. (By Mr. Loeser) Was there one place	
10	or or one source of information that the team	07:42:37
11	could look for to identify all of the whitelists	
12	that provided access to friend data?	
13	A. My understanding is the team had to look	
14	at at a few sources of information, and they did	
15	so in order to pull together some understanding.	07:42:59
16	Q. Was there more than one group or team	
17	that could make the decision to whitelist apps and	
18	partners?	
19	MR. SCHWING: Object to form.	
20	THE DEPONENT: Can you help me	07:43:19
21	understand, what do you understand by whitelist and	
22	partners in what context?	
23	Q. (By Mr. Loeser) In the context of the	
24	discussion we're having now about providing access	
25	to friend data.	07:43:30
		Page 1143

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1	MR. SCHWING: Object to form.	07:43:35
2	THE DEPONENT: So there were different	
3	teams involved in managing access, the the	
4	migration of the APIs in 2014 and 2015. And so	
5	it's possible the number of people involved.	07:43:58
6	Q. (By Mr. Loeser) What what were the	
7	different teams?	
8	MR. SCHWING: Object to form. Outside	
9	the scope.	
10	THE DEPONENT: My understanding is there	07:44:13
11	were several teams involved, the platform	
12	partnerships team, for example, and we have all	
13	partnerships teams, so those were two examples of	
14	teams that would have been involved.	
15	Q. (By Mr. Loeser) And are those teams that	07:44:32
16	had the authority to whitelist an app or a partner	
17	to have continued access to friend data?	
18	MR. SCHWING: Object to form.	
19	THE DEPONENT: Can you be specific about	
20	the the time period you're talking about.	07:44:47
21	Q. (By Mr. Loeser) The period after 2014	
22	when Graph API AP [sic] version 2 was uploaded?	
23	A. I'm sorry, what was the original question	
24	again?	
25	Q. Did each of the teams you just mentioned	07:45:09
		Page 1144

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1	have authority to whitelist apps or partners to	07:45:11
2	have continued access to APIs that emit friend	
3	data?	
4	MR. SCHWING: Object to form.	
5	THE DEPONENT: The decision to whitelist	07:45:22
6	apps for continued access to friend permissions,	
7	for example, was taken on a on a case-by-case	
8	basis among mul multiple teams to come to a	
9	recommendation decision.	
10	Q. (By Mr. Loeser) Okay. List for me all	07:45:41
11	of the teams that had the ability to do that?	
12	MR. SCHWING: Object to form.	
13	THE DEPONENT: I wouldn't be able to,	
14	you know, a list of every single team that may have	
15	been involved. Over time I can talk to some of the	07:45:58
16	ones I've already identified. There's the platform	
17	product team, the platform partnerships teams and	
18	they're the folks that would have worked together	
19	to to come to a recommendation.	
20	MR. LOESER: I'm going to introduce an	07:46:22
21	exhibit which is tab 34, which you should see	
22	momentarily. And this is Exhibit 434.	
23	Q. (By Mr. Loeser) And while this is coming	
24	up, I'll tell you this is an email from Dan Rose to	
25	Ime Archibong dated 6/22/2018 subject "Re:	07:46:59
		Page 1145

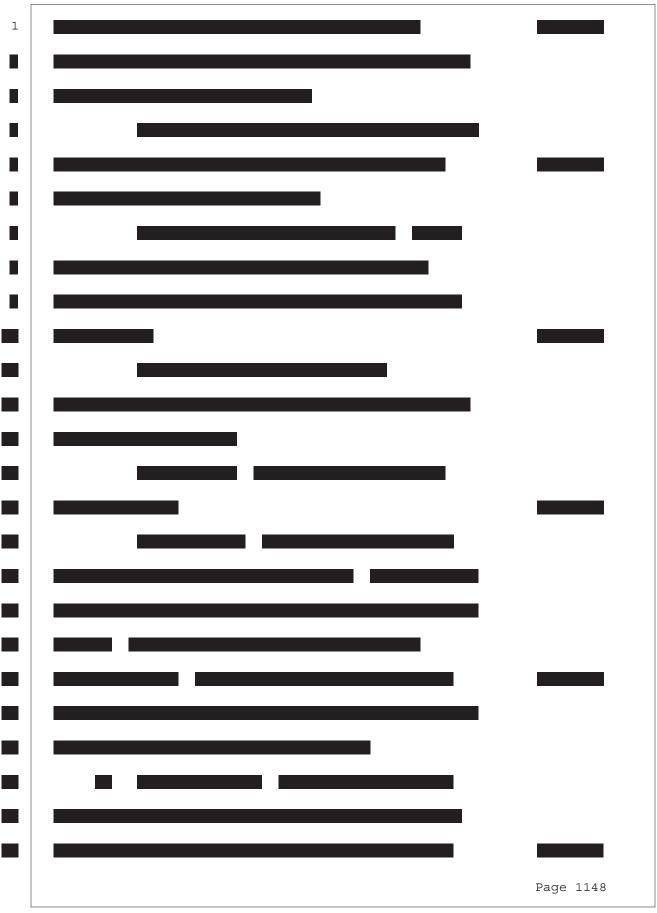
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1	V1 extensions."	07:47:03
2	Do you see that, Mr. Cross?	
3	A. I do see that.	
4	Q. Why don't you take a minute to to look	
5	through the email string. And I have a few	07:47:13
6	questions for you about the string.	
7	A. Sure. Thank you.	
8	MR. SCHWING: Mr. Loeser, I think for the	
9	record this was previously marked not too long ago	
10	as 433, Exhibit 433.	07:47:45
11	MR. LOESER: Thank you for that	
12	clarification. We'll correct that.	
13	MR. SCHWING: So you've you've now	
14	well, you can do what you want. If you want to	
15	have it as an exhibit twice I just want to make	07:48:02
16	sure there's no confusion.	
17	MR. LOESER: Why don't we go off the	
18	record real quickly.	
19	THE VIDEOGRAPHER: Going off the record.	
20	It's 7:48 p.m.	07:48:17
21	(Recess taken.)	
22	THE VIDEOGRAPHER: We're back on the	
23	record. It's 7:50 p.m.	
24	MR. LOESER: So for the record, we just	
25	marked an exhibit and didn't realize it had just	07:50:58
		Page 1146

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1	been marked previously today, in fact. So we will	07:51:01
2	pull down the second version of the same exhibit	
3	and just refer to the originally marked version,	
4	which is Exhibit 433.	
5	Q. (By Mr. Loeser) And I have a couple more	07:51:16
6	questions about this exhibit.	
7	Mr. Melamed asked you a few questions	
8	already. So obviously I won't reask those. But	
9	fair to say have you had a chance to take a look	
10	at this or do you recall from your earlier review	07:51:31
11	of it today what it's about?	
12	A. I have had a chance to review this just	
13	now, thank you.	
14		
		Page 1147

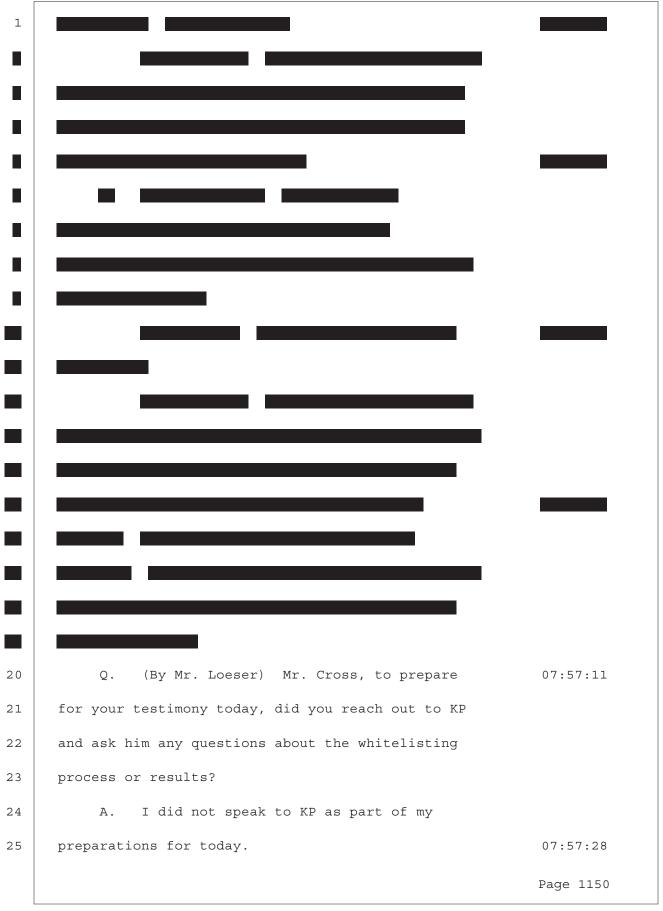
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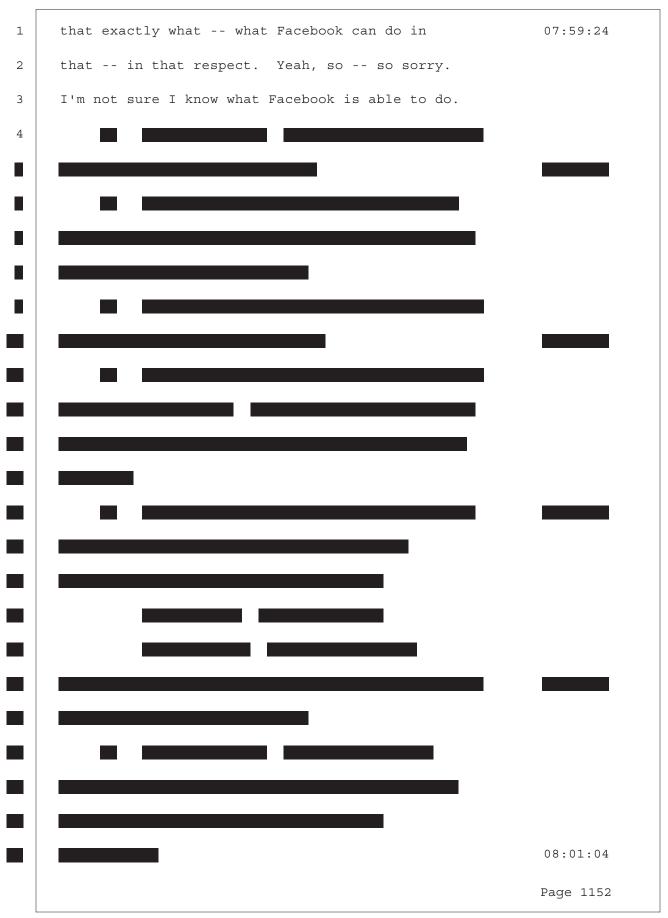
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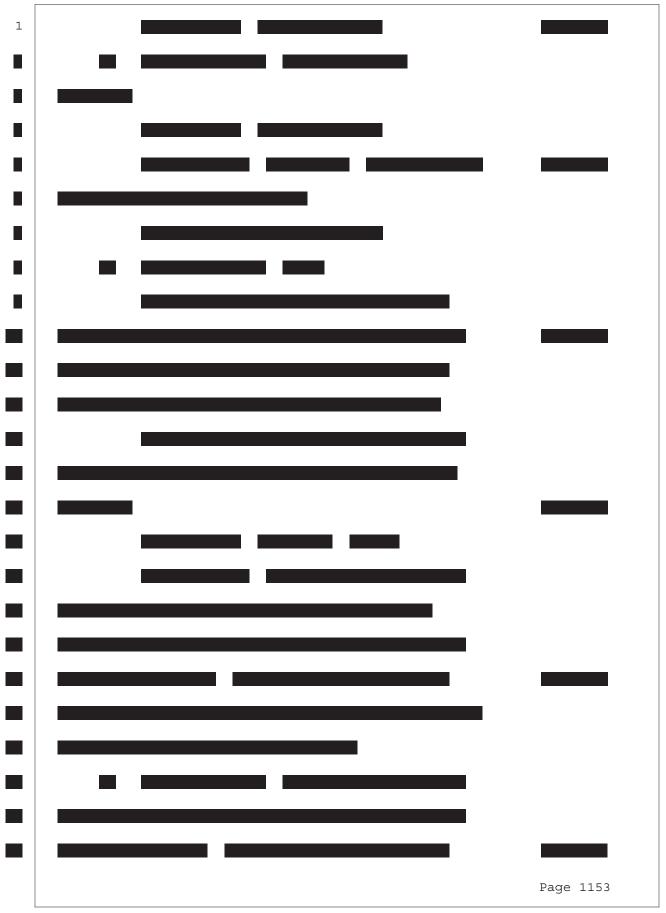
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1	Q. Mr. Cross, can Facebook identify all apps	07:57:31
2	that had access to APIs that emit friend data post	
3	2014?	
4	MR. SCHWING: Object to form.	
5	THE DEPONENT: Again, I think it's	07:57:49
6	important to I'm unclear on what you mean by	
7	"friend data" in this in this context.	
8	Q. (By Mr. Loeser) Okay. How how does	
9	Facebook use the term "friend data"?	
10	A. The Facebook has used that term in a	07:58:10
11	number of different ways. Primarily, it refers to	
12	content and information posted by a user that would	
13	be made available via platform.	
14	Q. So using that definition, can Facebook	
15	identify all apps that had access to APIs that emit	07:58:36
16	friend data after 2014?	
17	A. So my understanding is Facebook has	
18	altogether an understanding of the apps which had	
19	access to to friend data after 2014.	
20	Q. Can Facebook identify all Facebook users	07:59:02
21	who installed apps with access to APIs that emit	
22	friend data after 2014?	
23	MR. SCHWING: Object to form. Outside	
24	the scope.	
25	THE DEPONENT: I'm not entirely confident	07:59:22
		Page 1151

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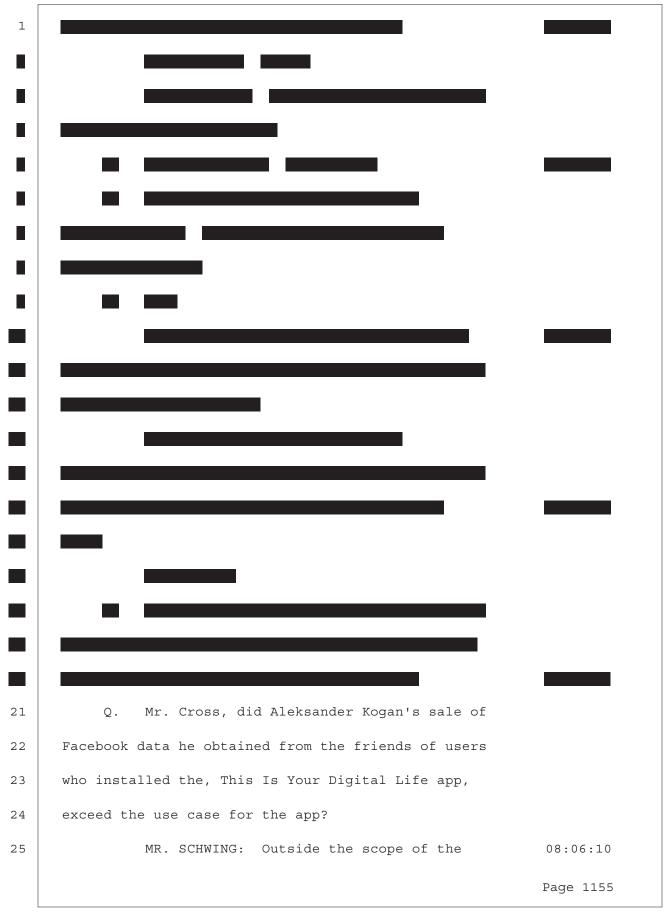
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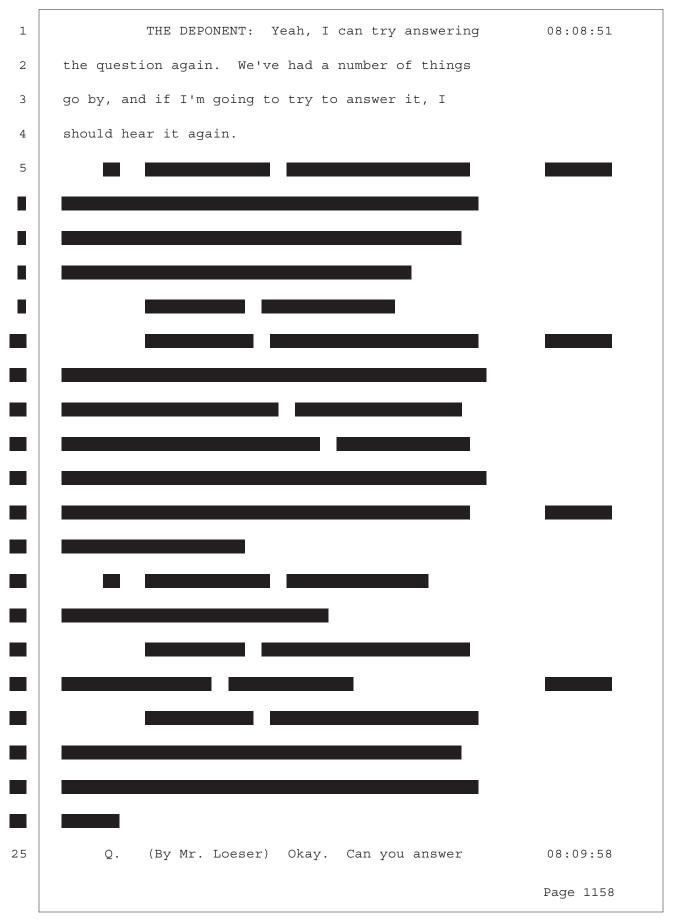
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1	deposition and object to form.	08:06:12
2	THE DEPONENT: That seems to be a	
3	question about platform policy as as written,	
4	which is not something I'm I'm particularly well	
5	qualified to to provide an opinion on. I think	08:06:30
6	the best person to ask that question to would be	
7	Ally Hendrix.	
8	SPECIAL MASTER GARRIE: Mr. Cross, while	
9	I appreciate you telling who's the are you	
10	saying in your 30(b)(6) capacity that's who you	08:07:01
11	believe is the best person. You're not you're	
12	not able to answer that question today as you sit	
13	here, is that I was just reading the transcript.	
14	So I'm a second behind, but I want to make sure I	
15	understood your answer.	08:07:18
16	Can you answer that question or not, as	
17	the 30(b)(6) capacity, right, let's be clear.	
18	MR. SCHWING: Yeah, and and we've got	
19	a scope objection there.	
20	SPECIAL MASTER GARRIE: Yeah, with the	08:07:37
21	scope objections noted on the record. I just	
22	Mr. Cross?	
23	THE DEPONENT: Yeah, that that	
24	SPECIAL MASTER GARRIE: If you're not	
25	prepared like let me be clear. There's three	08:07:49
		Page 1156

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1	possible answers. I'm not prepared to answer the	08:07:52
2	question. I am prepared to question [sic]. I	
3	don't understand the question.	
4	THE DEPONENT: Yeah, I'm not prepared to	
5	answer the question. I think that's a question	08:07:59
6	about platform policy and it's determination of the	
7	platform policy, which is not something that I'm	
8	prepared to testify on.	
9	SPECIAL MASTER GARRIE: And that's what I	
10	thought I understood your answer as. I just wanted	08:08:09
11	to clarify it for the record. Thank you.	
12	Back to you, Counsel Loeser.	
13	Q. (By Mr. Loeser) And regardless of	
14	whether you you believe you're prepared as a	
15	30(b)(6) witness to testify to that or not which is	08:08:18
16	a question I suppose for another day, can you	
17	answer the question?	
18	A. You're asking me in a personal capacity	
19	to answer the question?	
20	Q. I'm just asking you to answer the	08:08:35
21	question. In what capacity you answer it I suppose	
22	is something that can be determined. But I would	
23	like for you to answer the question.	
24	MR. SCHWING: Outside of the scope.	
25	Object to form.	08:08:48
		Page 1157

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1	the question?	08:09:59
2	A. Again, I don't feel like I can answer the	
3	question. As it would require me to have,	
4	you know interpret policy which is not something	
5	that I'm I'm an expert in being able to do.	08:10:10
6	Q. So you're not able to answer that	
7	question.	
8	MR. SCHWING: Same objections.	
9	THE DEPONENT: Yeah, I don't I don't	
10	feel I don't feel comfortable giving an answer	08:10:25
11	to that question given I'm just not that well	
12	versed in Facebook's platform policy. And I want	
13	to make sure that you get the right answers to your	
14	questions.	
15	MR. SCHWING: Special Master Garrie, may	08:10:42
16	I make a Rule 30 motion without Mr. Cross present.	
17	SPECIAL MASTER GARRIE: Yeah, Mr. Cross	
18	you can can you go to the break out room.	
19	THE DEPONENT: Sure.	
20	MR. SCHWING: Special Master Garrie,	08:11:03
21	Mr. Loeser is supposed to be asking questions about	
22	topics 6 and 7. Mr. Cross is not designated to	
23	discuss the use-case issues that are being asked	
24	about. He's made that clear, but Mr. Loeser	
25	continues to ask the questions.	08:11:18
		Page 1159

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1	Mr. Cross is going to be providing	08:11:20
2	another deposition later in his personally	
3	capacity. We've been going for now, you know, near	
4	five days and we need to try to finish. So I would	
5	request some relief here that we try to speed this	08:11:32
6	along on the topics he's actually designated for.	
7	MR. LOESER: May I be heard,	
8	Special Master Garrie.	
9	SPECIAL MASTER GARRIE: Yeah.	
10	MR. LOESER: So I'm asking questions that	08:11:43
11	are specifically and directly about friend sharing	
12	and whitelisting. And friend sharing is what	
13	Cambridge Analytica is all about. The notice, in	
14	fact, refers to use cases with regard to	
15	whitelisting which is what I'm about to ask further	08:11:56
16	questions on. I don't have more questions about	
17	Cambridge Analytica. So we can move on from that.	
18	But it is simply not true that questions	
19	about Cambridge Analytica which is friend sharing,	
20	the whole scandal friend sharing, does not relate	08:12:08
21	to the topic of friend sharing identified in the	
22	notice.	
23	So I don't think we need to have a long	
24	fight about it because I don't have further	
25	questions about the use-case issue regarding friend	08:12:16
		Page 1160

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1	sharing, but I do have some additional questions	08:12:21
2	about use case relating to whitelisting because	
3	it's specifically identified in	
4	SPECIAL MASTER GARRIE: It does state it	
5	in the notice.	08:12:27
6	Counsel Schwing, any comment?	
7	MR. SCHWING: So topic 6 is related to	
8	the development of friend sharing, that's the	
9	topic, the development of friend sharing. So this	
10	is, you know, what we ought to be focused on. I	08:12:45
11	don't see so where where is this bit about	
12	the use case that you're talking about.	
13	MR. MELAMED: 7A says and whether the	
14	access granted exceeded the use case.	
15	MR. SCHWING: Okay. And 7 is, the topic	08:13:03
16	is the decision to whitelist particular apps or	
17	partners.	
18	MR. LOESER: That's what I'm about to	
19	talk about	
20	MR. SCHWING: Sorry. Please let me	08:13:14
21	finish, Mr. Loeser.	
22	MR. LOESER: Sorry.	
23	MR. SCHWING: The decision to whitelist	
24	particular apps or partners and how Facebook	
25	determined which entities to whitelist.	08:13:18
		Page 1161

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1	So the topic is not sort of anything and	08:13:20
2	everything ever to do with, you know, about	
3	whitelisting. It's a specific narrow topic. It	
4	sounds like Mr. Loeser is moving moving along	
5	and I I think we all share a mutual interest	08:13:32
6	in in finishing. I just want to make sure that	
7	we're not	
8	SPECIAL MASTER GARRIE: I agree. I am	
9	ready to rule.	
10	So Mr. Loeser, your questions he's	08:13:40
11	answered them. They are gracefully in a gray zone	
12	that will bear into an area where it will prove	
13	more problematic for you. So if you're moving to	
14	the next set of questions as 7A dictates you're	
15	more than welcome to cover that topic as indicated	08:13:58
16	and as defined. I don't have any problems with	
17	that. And I think that is appropriate.	
18	So I will move we will move forward	
19	with the questions. But friend sharing does relate	
20	to a use case under 7A, under whitelisting	08:14:15
21	defend depending the definition of	
22	whitelisting is defined as what Mr. Loeser	
23	Counsel Loeser?	
24	MR. LOESER: Whitelisting is providing	
25	Mr. Cross has defined it as providing access to	08:14:33
		Page 1162

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1	nonpublic APIs and private APIs, so	08:14:35
2	I mean, I that's what I'm asking	
3	about. And	
4	SPECIAL MASTER GARRIE: I get it. I	
5	agree. So that's fine. We'll move along. I think	08:14:45
6	that makes sense.	
7	Counsel Schwing, we'll move it along. I	
8	agree. But I do think that there is a pretty wide	
9	birth under 7A for as long as it stays focused on	
10	the whitelisting topic. And I think it's within	08:15:01
11	the scope of, while narrow is very specific in	
12	in its application.	
13	Any last comments, Counsel Schwing or	
14	MR. SCHWING: Yeah, I mean, I think all	
15	of 7 kind of ties back to the beginning of it which	08:15:24
16	is the decision to whitelist particular apps or	
17	partners and how Facebook determined which entities	
18	to whitelist. You know, the issues about exceeding	
19	the use case. I mean, there's a whole there was	
20	a whole separate deposition about that.	08:15:41
21	SPECIAL MASTER GARRIE: Yeah.	
22	MR. SCHWING: And so look, I think we can	
23	move along. I just to the extent that they're	
24	repeated questions about, you know, that he's	
25	SPECIAL MASTER GARRIE: Let me put it to	08:15:51
		Page 1163

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1	you differently. I agree with Counsel Schwing in	08:15:52
2	the fact that when you ask a question	
3	Counsel Loeser, and he says "I'm not here to	
4	testify about it." And then he says it again "I'm	
5	not here to testify about it."	08:16:00
6	That should be sufficient for you to move	
7	onto another question and keep it moving forward,	
8	generally speaking. Or you can make a motion or	
9	Rule 30 motion and we go and excuse the witness and	
10	discuss it future. But I don't think asking the	08:16:15
11	witness the same thing will prove to be effective.	
12	MR. LOESER: Yeah, that that's fine.	
13	I mean, you know, typically a scope objection is	
14	made, 30(b)(6) witnesses testify all the time.	
15	There's always a fight about whether it's in scope	08:16:29
16	or out of scope and if they provide what becomes	
17	personal testimony there's nothing. That's just	
18	how it how it works.	
19	I'd also just note just so it's clear, I	
20	think Mr. Schwing and I have a slightly different	08:16:39
21	understanding of how a notice operates under	
22	30(b)(6). The law is quite clear that it sets the	
23	minimum not the maximum of what you can ask about.	
24	SPECIAL MASTER GARRIE: I'm I'm not	
25	I'm not talking about scope. I'm talking about	08:16:49
		Page 1164

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1	form.	08:16:51
2	What I'm saying is, if you want to ask in	
3	your personal capacity or in your non30(b)(6)	
4	capacity to get he said, "I'm not here to	
5	testify in my" as "as a representative of	08:17:00
6	Facebook to answer this question."	
7	You said, "Will you answer this	
8	question."	
9	And then he said, "Do you mean in my	
10	personal capacity?"	08:17:09
11	And your response was "Just answer the	
12	question."	
13	So if you want him to answer the question	
14	in his personal capacity, he will. But he will not	
15	answer and that resulted in a circular set of	08:17:19
16	questions where you asked him again the exact same	
17	question and ended up at the exact same point.	
18	So you would need to offer that	
19	clarification because he has answered the question	
20	as he understood it, which was you are asking him	08:17:30
21	in his professional 30(b)(6) capacity. Which is	
22	why he answered it accordingly. Whether you agree	
23	or not, that was the answer provided. We went in a	
24	circle and got back to the same point.	
25	MR. LOESER: Yeah, well, fortunately I	08:17:44
		Page 1165

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1	don't have any more questions on that. And I do	08:17:44	
2	have questions on whitelisting and use cases		
3	SPECIAL MASTER GARRIE: That's fine.		
4	Let's get it on the road. Show on the road.		
5	MR. LOESER: I think Austin and I have a	08:17:53	
6	common and and clear desire to make this		
7	deposition over with. So		
8	MR. SCHWING: This is		
9	SPECIAL MASTER GARRIE: Let's be clear		
10	I I'm not opining with the minimum or maximum.	08:18:01	
11	I am opining, though, with the format the form		
12	of how it goes. So we'll get the witness back.		
13	But just keep that in the back of your mind,		
14	Counsel Loeser		
15	MR. LOESER: Sure.	08:18:13	
16	SPECIAL MASTER GARRIE: that if it		
17	happens again I'll cut it off, and I'll just tell		
18	you to ask the next question. Or you can tell him		
19	in your personally capacity. Because you have to		
20	explain to the witness the question you're asking	08:18:20	
21	so he can then answer the question. He couldn't		
22	answer the question because he didn't understand		
23	how you were asking him.		
24	MR. LOESER: Understood.		
25	SPECIAL MASTER GARRIE: Okay.	08:18:30	
		Page 1166	
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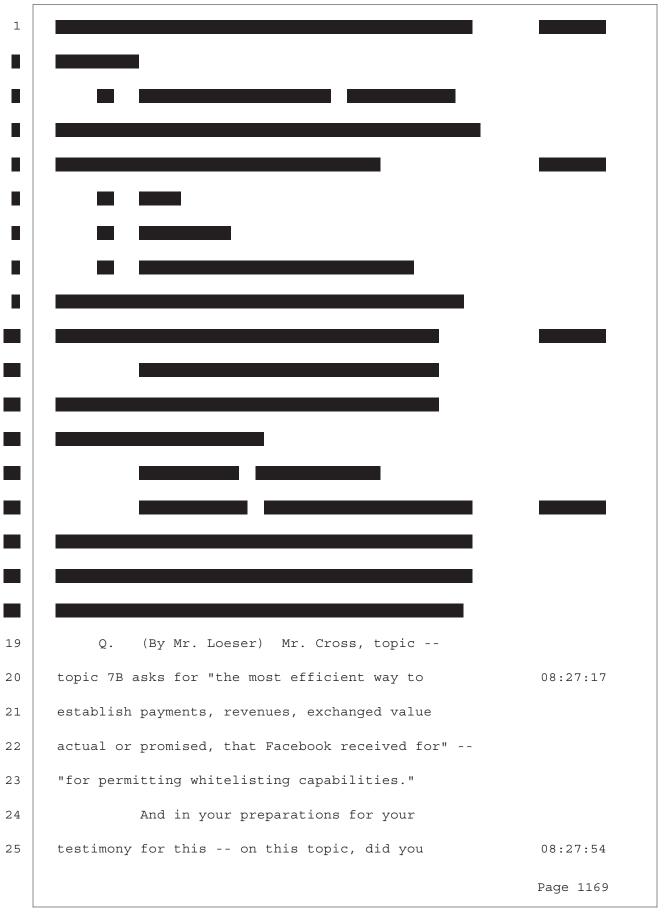
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1	MR. SCHWING: I'll go get Mr. Cross here	08:18:31
2	and we'll get back. Yeah. I mean, look, I want to	
3	get done too. This is, you know, nobody wants to	
4	prolong this. So okay. Let me I need to go	
5	tell my housekeeper to stop vacuuming, and then I	08:18:40
6	will be right back.	
7	SPECIAL MASTER GARRIE: Okay.	
8	THE VIDEOGRAPHER: Go off the record?	
9	SPECIAL MASTER GARRIE: Go off the record	
10	for two minutes I guess.	08:18:53
11	THE VIDEOGRAPHER: Okay. We're off the	
12	record. It's 8:18 p.m.	
13	(Recess taken.)	
14	THE VIDEOGRAPHER: We're back on the	
15	record. It's 8:23 p.m.	08:23:24
16		
		6
		Page 1167

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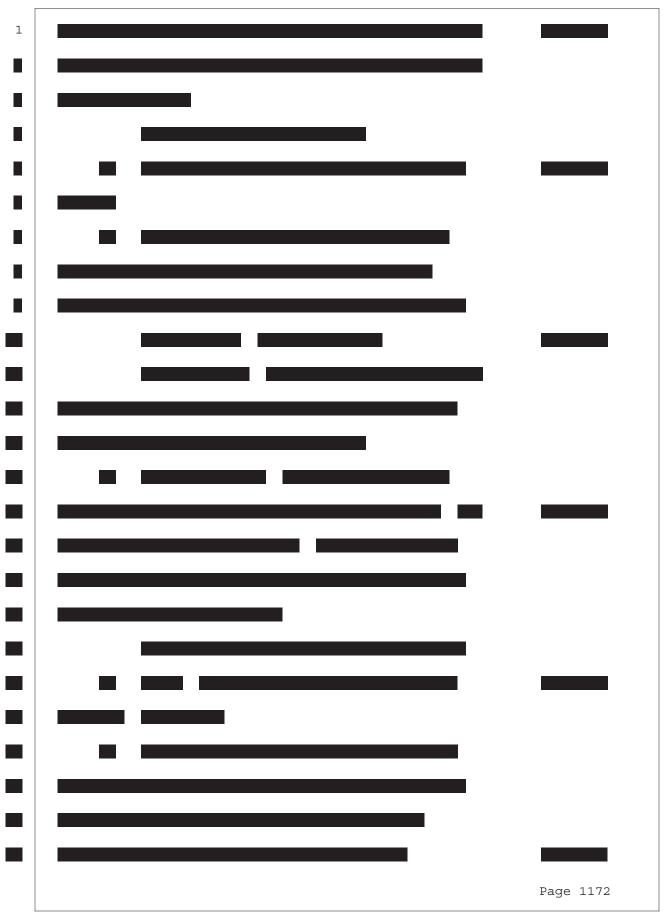
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1	investigate that question?	08:27:59
2	A. I spoke to a number of people involved in	
3	the API changes and in around 2014 and '15 to	
4	understand their understanding of how decisions	
5	were made.	08:28:26
6	Q. And specifically with regard to payments,	
7	revenues, exchanged value actual or promised, who	
8	did you talk to to drill down on whether any such	
9	payments, revenues, exchanged value actual or	
10	promised were provided to Facebook for permitting	08:28:44
11	whitelisting?	
12	A. I spoke to Ime Archibong. I spoke to	
13	Francisco Varela, and those are the two names off	
14	the top of my head. I spoke to a number of people	
15	involved in this in preparation for today.	08:29:08
16	Q. Did you speak to anyone who worked on	
17	the in an advertising department at Facebook?	
18	A. Did I speak to anyone in advertising	
19	department.	
20	Q. Or more broadly, anyone that that was	08:29:30
21	involved in the business of advertising on the	
22	Facebook platform?	
23	A. I spoke with Vatsal Mehta. Who's	
24	involved in in that side of the company as I	
25	understand it.	08:29:49
		Page 1170

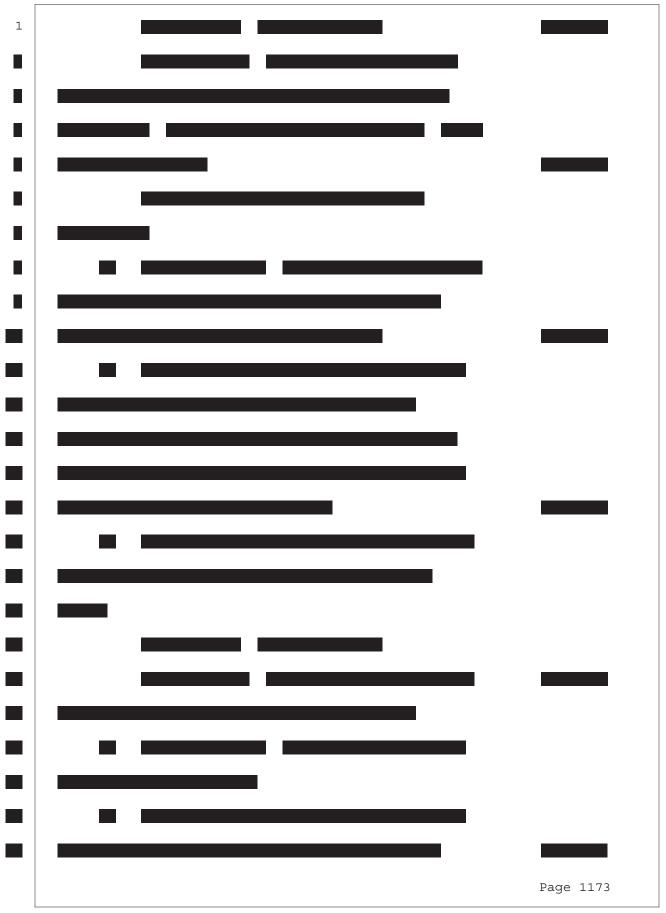
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1	Q. Okay. And what what did is that	08:29:49
2	a what was that person's name, I'm sorry?	
3	A. Vatsal Mehta.	
4	Q. Could you spell the first name.	
5	A. V-A-T-S-A-L. The surname is Mehta.	08:30:07
6	M-H-E-T-A [sic] I think.	
7	Q. And what did you learn from Mr. Mehta?	
8	A. He was not able to identify for me	
9	examples of how Facebook received payments for	
10	whitelisting.	08:30:34
11	Q. Now, the next paragraph clause in the	
12	notice says "and the revenues and net profits	
13	Facebook recognized related to whitelisting through	
14	the class period."	
15	Did you investigate anything of value	08:30:54
16	received by Facebook that related to whitelisting?	
17	MR. SCHWING: Outside the topic.	
18	THE DEPONENT: Again, I spoke to a number	
19	of people who were involved in whitelisting and	
20	partnerships to understand if they had any	08:31:19
21	understanding of value received or payments made.	
22	MR. LOESER: All right. If we can put up	
23	Exhibit 339.	
24	Q. (By Mr. Loeser) Mr. Cross, I'm showing	
25	you what was previously marked as Exhibit 339.	08:32:03
		Page 1171
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1		
2	Q. And that's why you didn't talk to her?	
3	A. My understanding is that yes, because she	
4	is not employed at Facebook and it's not	
5	appropriate to reach out to her.	08:35:20
6	Q. Did you talk to or seek to find out if	
7	anyone else received this PowerPoint who still	
8	works at Facebook?	
9	A. I didn't, like, try and understand who	
10	else might have received this PowerPoint. However,	08:35:44
11	I have spoken to Mr. Archibong who likely may have	
12	received this this PowerPoint at some time.	
13	Q. And did you talk to him about this	
14	PowerPoint?	
15	A. I talked to him about the his	08:36:04
16	understanding of how valuations were were made	
17	about apps to whitelisting.	
18	Q. But did you talk to him specifically	
19	about this PowerPoint?	
20	A. I don't recall showing this PowerPoint to	08:36:21
21	Mr. Archibong, but we talked in general about the	
22	topics contained within.	
23	Q. Did you talk to him about what Facebook	
24	had to lose if certain partners stopped using the	
25	Facebook platform?	08:36:36
		Page 1174

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1	MR. SCHWING: Object to form.	08:36:40
2	THE DEPONENT: We discussed whether or	
3	not, what the potential implications of the changes	
4	might be and how Facebook how he and his	
5	partnerships team thought about those potential	08:36:56
6	changes.	
7	Q. (By Mr. Loeser) That's not quite what I	
8	asked you. So I will if you can answer the	
9	question I had asked I would appreciate it. Which	
10	if I could get this computer to work I read back to	08:37:13
11	you.	
12	MR. SCHWING: The court reporter could	
13	MR. LOESER: Yeah, I have it now. I'm	
14	sorry, Austin. I didn't mean to interrupt you.	
15	MR. SCHWING: Yeah, if if you could	08:37:25
16	read it again that would be wonderful, thank you.	
17	Q. (By Mr. Loeser) Did you talk to	
18	Mr. Archibong about what Facebook had to lose if	
19	certain partners stopped using the Facebook	
20	platform?	08:37:38
21	MR. SCHWING: Object to form.	
22	THE DEPONENT: We talked about me and	
23	Mr. Archibong talked about the potential	
24	implications for the developing ecosystem from	
25	these changes that were proposed at the time.	08:37:54
		Page 1175

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1	Q. (By Mr. Loeser) And Mr. Cross, did that	08:37:57
2	include what Facebook had to lose if certain	
3	partners stopped using the platform?	
4	MR. SCHWING: Object to form.	
5	THE DEPONENT: We talked about the	08:38:11
6	potential impact to developers and and the	
7	developer ecosystem which would be an impact on	
8	on Facebook.	
9	Q. (By Mr. Loeser) Mr. Cross, I'm just	
10	trying to get a straightforward yes-or-no answer to	08:38:26
11	a straightforward question.	
12	So I'll ask again. And if you could just	
13	answer, we can move on to the next question.	
14	Do you need me to read back the question	
15	again?	08:38:41
16	A. So we talked about the you're using a	
17	phrase that "what do we have to lose." Do I	
18	recall using that specific phrase with	
19	Mr. Archibong, I don't recall using that specific	
20	phrase in that conversation with him.	08:38:53
21	But I do recall we talked about his	
22	understanding of the discussions at the time as to	
23	the impact on Facebook and third-party developers	
24	of the changes, which would encompass things that	
25	the company might have to deal with and the value	08:39:16
		Page 1176

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1	that the company might lose.	08:39:22
2	Q. And, again, so the record is clear, you	
3	did not talk to him specifically about this	
4	PowerPoint, correct?	
5	A. I did not talk to Mr. Archibong	08:39:30
6	specifically about this PowerPoint. But we we	
7	talked about the general topics contained within	
8	which was important for me to help prepare myself	
9	for for today's testimony.	
10	Q. Now for a PowerPoint for a PowerPoint	08:39:43
11	like this, would that have been a formal task or	
12	Quip generated in connection with the project?	
13	MR. SCHWING: Object to form. Outside	
14	the scope.	
15	THE DEPONENT: Yeah, I can't say exactly	08:39:58
16	what the the partnerships team would have	
17	operated at this time and whether or not they'd	
18	have other documentation. Typically somebody	
19	would would be asked to work on something and	
20	work on it. I'm not able to say whether or not in	08:40:18
21	this case there were other tasks and documents.	
22	Q. (By Mr. Loeser) Did you search for a	
23	formal task generated in connection with this	
24	project?	
25	A. I did not search for a task in	08:40:39
		Page 1177

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1	relationship to this specific deck.	08:40:41
2	Q. How about a Quip?	
3	A. I did not search for a Quip relating to	
4	this specific deck either.	
5	Q. And were you able to determine what, if	08:40:57
6	anything, was done with this evaluation that's	
7	contained in this PowerPoint by Facebook?	
8	MR. SCHWING: Object to form.	
9	THE DEPONENT: In talking to the to	
10	the people involved, my understanding is that	08:41:16
11	this this PowerPoint does not was did not	
12	go on to be used to determine which apps should or	
13	should not be whitelisted.	
14	Q. (By Mr. Loeser) And yet you didn't talk	
15	about the PowerPoint specifically with anyone that	08:41:33
16	you talked to to prepare for your testimony, right?	
17	MR. SCHWING: Object to form.	
18	THE DEPONENT: I spoke to Mr. Archibong	
19	about his recollection around the time and how	
20	decisions were made, and he does not recall a	08:41:52
21	formal framework being used ultimately to make	
22	make decisions.	
23	Q. (By Mr. Loeser) You didn't say	
24	Mr. Archibong, have you seen this PowerPoint	
25	before, right?	08:42:08
		Page 1178

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1	MR. SCHWING: Asked and answered.	08:42:15
2	THE DEPONENT: As I said, I did not show	
3	this PowerPoint to to Mr. Archibong.	
4	Q. (By Mr. Loeser) You didn't say	
5	Mr. Archibong, what do you think about the analysis	08:42:22
6	that's contained in the PowerPoint, right?	
7	A. Me and Mr. Archibong talked about how,	
8	his recollection of how decisions were made and	
9	ultimately what considers and what factors and	
10	considerations were were included. I I did	08:42:45
11	not specifically show him this PowerPoint.	
12	Q. Mr. Cross, isn't it a fact that Facebook	
13	treated certain developers specially based on their	
14	value to Facebook and ad spend?	
15	MR. SCHWING: Object to form.	08:43:07
16	THE DEPONENT: It's true that Facebook	
17	whitelisted certain apps for having access to	
18	additional information. But I'm I'm not aware	
19	of in terms of the friends' information whether	
20	or not that was in any way related to to	08:43:34
21	ad spend.	
22	Q. (By Mr. Loeser) And so you don't know	
23	one way or the other?	
24	MR. SCHWING: Object to form.	
25	THE DEPONENT: Sorry, I'm not sure I	08:43:46
		Page 1179

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1	understand.	08:43:48
2	Q. (By Mr. Loeser) So you don't know if, in	
3	fact, certain developers were treated specially	
4	based on their value to Facebook and ad spend,	
5	right?	08:43:59
6	MR. SCHWING: Object to form.	
7	THE DEPONENT: Are you talking to the	
8	people involved in terms of apps that were	
9	whitelisted for extensions or exemptions to API	
10	version 1, there was from the people I've spoken	08:44:15
11	to, there is nothing about their impact on ad spend	
12	that was involved in the decision to whitelist	
13	them.	
14	Q. (By Mr. Loeser) And is that a question	
15	that you asked?	08:44:34
16	A. Yes, I asked people whether or not they	
17	recall revenue being involved in the ultimate	
18	decision to whitelist apps for access to friend	
19	data, and I was not able everybody suggested to	
20	me that that I spoke to that that was not the	08:44:56
21	case.	
22	Q. And the people that you spoke to are	
23	Ime Archibong and who else?	
24	A. I spoke to Ime Archibong. I spoke to	
25	Francisco Varela, and a number of other people	08:45:20
		Page 1180

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1	whose whose names in relation to this, I can't	08:45:26
2	recall right now.	
3	Q. And did you ask them if ad spend was	
4	taken into the account in the decision to whitelist	
5	any partners?	08:45:35
6	A. Yes, my understanding is that from	
7	from the people I spoke to, ad spend was was not	
8	taken into account in a decision to whitelist	
9	anyone for an extension to or exemption from	
10	the the changes in API version 1 to 2 with	08:45:56
11	respect to friends data.	
12	Q. And who specifically told you ad spend	
13	wasn't taken into account?	
14	A. Mr. Archibong talked to me about ad spend	
15	not being a deciding factor. I'm sorry, he was one	08:46:17
16	of people who said that.	
17	Q. And you said "deciding factor."	
18	Does that mean the same thing to you as	
19	taken into account?	
20	A. Yes, that would mean the same thing to me	08:46:34
21	as taken into account in terms of the ultimate	
22	decision to grant access.	
23	Q. And have you examined the number of	
24	whitelisting partners that had significant ad spend	
25	on the Facebook platform?	08:46:52
		Page 1181

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1	MR. SCHWING: Object to form.	08:46:55
2	THE DEPONENT: I'm not sure what you mean	
3	by partners who have significant ad spend on the	
4	Facebook platform.	
5	Q. (By Mr. Loeser) Okay. How would you	08:47:08
6	describe partners paying money to Facebook for	
7	advertising on the platform?	
8	MR. SCHWING: Object to form.	
9	THE DEPONENT: So companies often buy ads	
10	with Facebook, and that's handled by the the	08:47:28
11	advertising arm of the business. So I think that's	
12	what we mean	
13	Q. (By Mr. Loeser) Okay. And has Facebook	
14	examined the number of whitelisted partners that	
15	paid money to Facebook for advertising on the	08:47:45
16	Facebook platform?	
17	MR. SCHWING: Object to form.	
18	THE DEPONENT: I mean, many organizations	
19	spend spend money with Facebook on in some	
20	way. So I'm kind of I'm not entirely sure how	08:48:04
21	to answer the question.	
22	Q. (By Mr. Loeser) Well, let me ask it	
23	again. And I it's I'm trying to ask you a	
24	very straightforward simple question, which is just	
25	if Facebook has examined the number of whitelisted	08:48:13
		Page 1182

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1	partners that paid money to Facebook to advertise	08:48:20
2	on the Facebook platform, is that an examination	
3	that Facebook has conducted?	
4	MR. SCHWING: Vague.	
5	THE DEPONENT: I'm not aware of of a	08:48:35
6	specific evaluation that was done with respect to	
7	whitelisting parties and ad spend.	
8	Q. (By Mr. Loeser) Is that an evaluation	
9	that Facebook is capability of doing?	
10	MR. SCHWING: Object to form. Outside	08:48:56
11	the scope.	
12	THE DEPONENT: I don't know exactly how	
13	our our advertising systems work. I I'm not	
14	sure I wouldn't be able to confirm if that's	
15	something Facebook would be able to do.	08:49:10
16	Q. (By Mr. Loeser) Who would you ask to	
17	find out if that's an analysis that Facebook was	
18	capable of doing?	
19	A. Again, I'm not entirely clear on the	
20	the analysis that that was suggesting could be	08:49:36
21	done. So it's hard for me to suggest what I would	
22	do next. This is relatively vague in terms of,	
23	like, the time and objectives that we were	
24	suggesting.	
25	Q. Does Facebook keep track of the amount of	08:50:03
		Page 1183

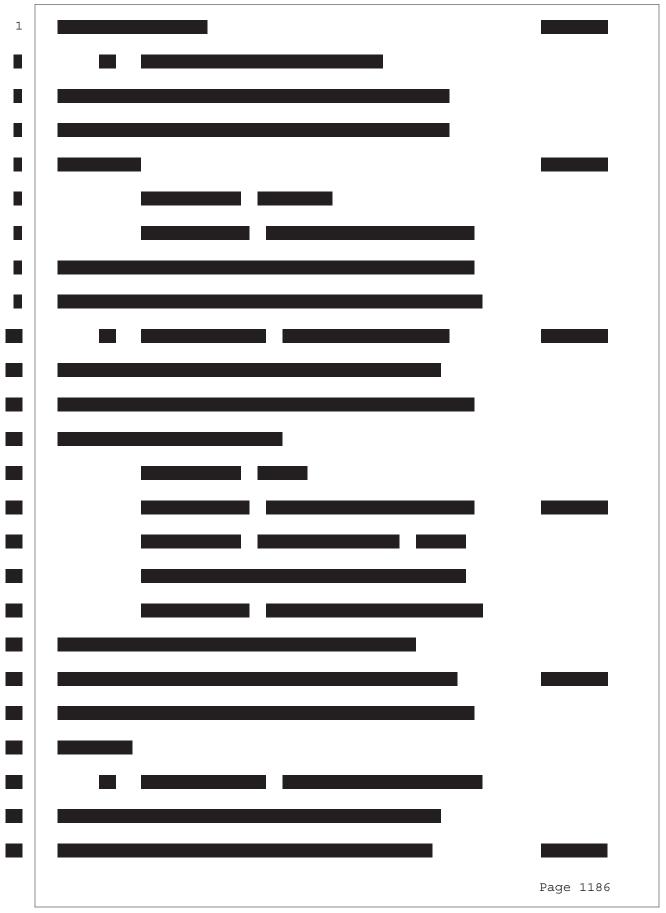
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1	money that its partners pay to Facebook?	08:50:05
2	MR. SCHWING: Outside of the scope.	
3	THE DEPONENT: Can you help me understand	
4	by what you mean by "partners and pay," in what	
5	context?	08:50:23
6	Q. (By Mr. Loeser) In the context of the	
7	conversation we're having about whitelisted	
8	partners. And, again, I'm just trying to sort out	
9	what Facebook is capable of identifying.	
10	So tell me if I'm wrong. Facebook keeps	08:50:34
11	track of money received from any partners,	
12	including its whitelisted partners, right?	
13	A. Again, Facebook keeps Facebook will	
14	track revenue spent on ads by by corporations	
15	and companies and and entities. So that's part	08:50:57
16	of the standards Facebook's standards	
17	standard business practices for running an ad	
18	system.	
19	By "partners," I assume you mean entities	
20	that Facebook worked with as part of the Facebook	08:51:14
21	developer platform. And so if if that's what	
22	you mean well, first of all is that what you	
23	mean?	
24	Q. Here's what I mean. Facebook has	
25	identified all of the apps and partners that it	08:51:30
		Page 1184

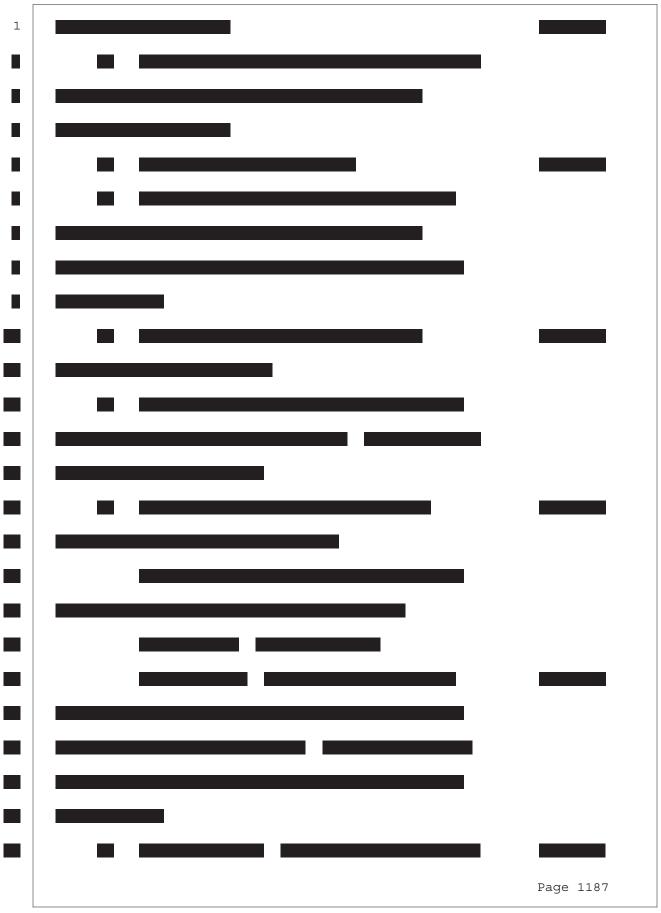
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1	whitelisted for access to friend data, right. We	08:51:34
2	went through that the other day.	
3	A. Yes, Facebook has has enacted an	
4	exhaustive effort to identify apps and partners	
5	that were whitelisted for access to friend data.	08:51:47
6	Q. So what would Facebook need to do to also	
7	identify for those very same entities the revenue	
8	spent on ads on the Facebook platform?	
9	MR. SCHWING: Outside the scope. Object	
10	to form.	08:52:04
11	THE DEPONENT: Again, in that context,	
12	it's hard for me to know exactly what what	
13	Facebook would do. Apart from the but the	
14	conversation with the between the the teams	
15	that run the Facebook advertising business and the	08:52:25
16	teams that maintain the Facebook developer	
17	platform.	
18		
		Page 1185

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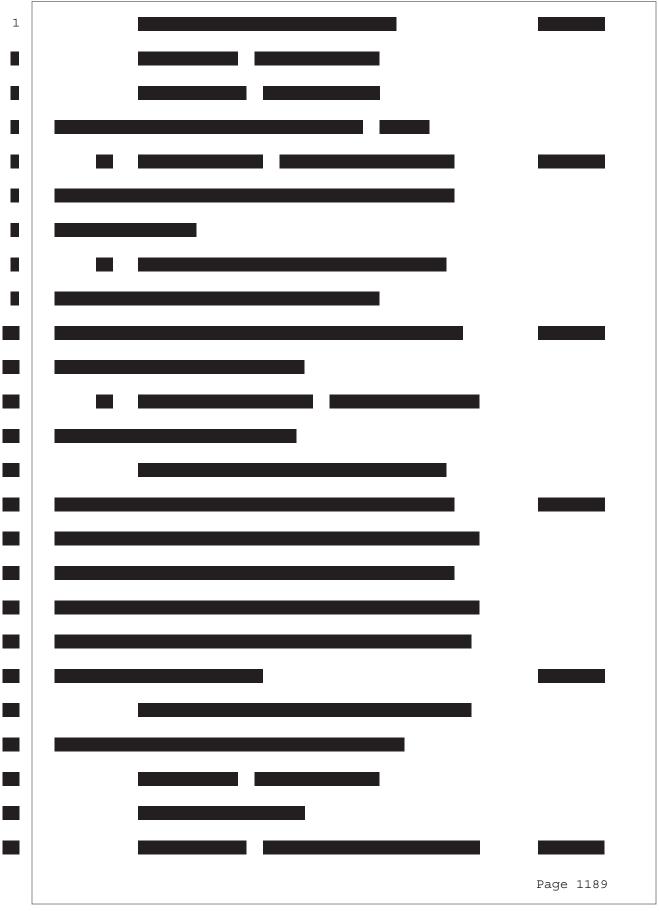
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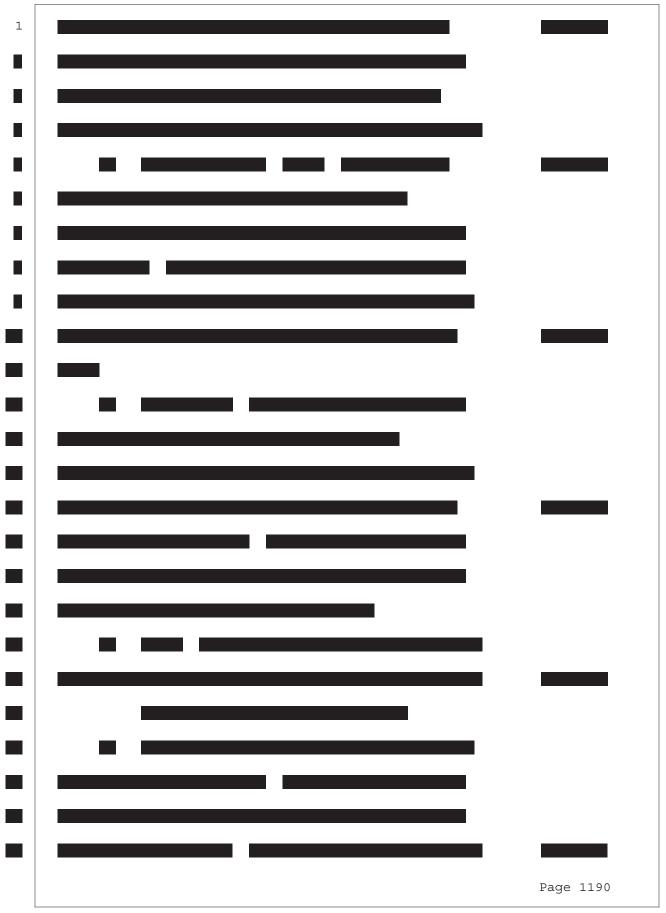
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1		
9	Q. And how about between March of 2018 and	
10	January 2020, how many apps or partners continued	09:05:06
11	to have access to those capabilities during that	
12	timeframe, do you know that?	
13	A. The process to wind down partner	
14	integrations began in April 2018 and continued over	
15	2018 and early 2019. Exactly I can't remember the	09:05:29
16	exact numbers of of which apps were were	
17	included. But my understanding is that that	
18	program or the whitelisting program was wound down	
19	probably by the end of 2018.	
20	Q. And, Mr. Cross, are there any other ways	09:05:53
21	that friend data is emitted by Facebook other than	
22	those that you've described that are ongoing?	
23	A. The answer to that question is is a	
24	little complicated depending on the precise	
25	precise definition of of friend data.	09:06:14
		Page 1193

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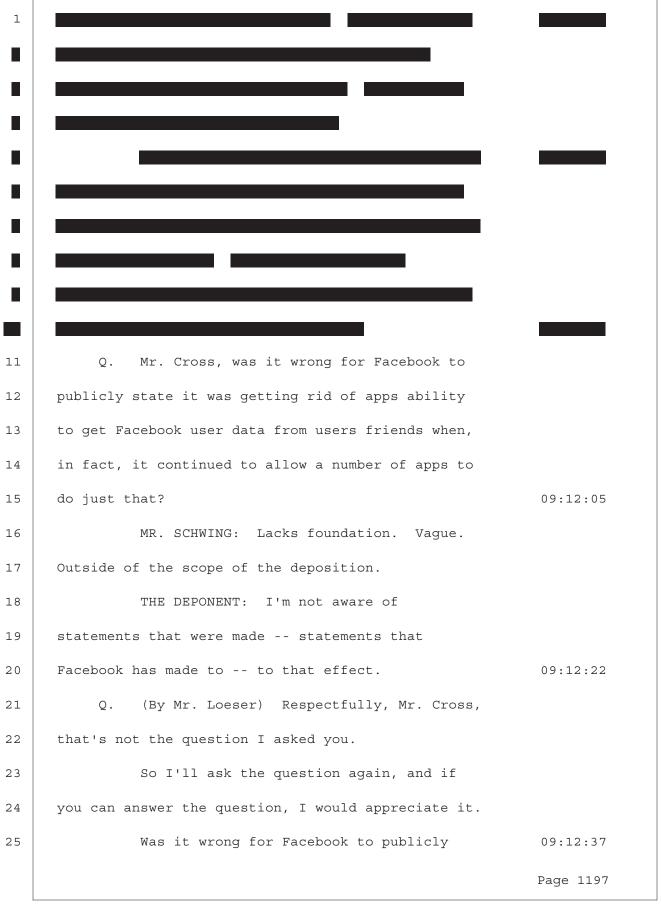
1	And so so that makes it hard to answer	09:06:17
2	your question in in the affirmative.	
3	Q. Okay. Well, what are the ways in which	
4	friend data is still emitted? And if to answer	
5	that question you have to explain what friend data	09:06:38
6	means in that context, please do so.	
7	A. So using the definition of of friend	
8	data which is information somebody else's	
9	information which a user emits or could emit to a	
10	third-party application by nature of them being a	09:07:01
11	friend, my understanding is that Facebook has	
12	removed all the ways in which a users friends data	
13	would be emitted to a third-party app to the nature	
14	of them being a friend.	
15	Q. Okay. And you said that your answer	09:07:25
16	"depended on how you define friend data."	
17	So is there another definition of friend	
18	data that you have in mind which if applied would	
19	lead you to testify that friend data continues to	
20	be emitted now?	09:07:40
21	A. Again, it's it depends what you mean	
22	by what's meant by friend data. What I'm referring	
23	to here is information that's posted or entered by	
24	a users friend, which would be emitted by the	
25	nature of them being a friend to a third party.	09:08:08
		Page 1194

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1	Q. And, again, I'm just trying to understand	09:08:20
2	your earlier testimony.	
3	So is there some other type of friend	
4	data that continues to be emitted today?	
5	A. For example, if I managed a page and I	09:08:37
6	had an app managing my page, and one of my friends	
7	posted publicly on that page, it's possible that an	
8	app would have access to that public content.	
9	So that's the example of of	
10	information that's about a friend which might be	09:09:03
11	emitted.	
12	Q. Can you think of any other examples?	
13	A. That's really the the example I can	
14	think of.	
15	Q. Mr. Cross, I asked you previously about	09:09:22
16	the factors that led Facebook to deprecate APIs	
17	that emit friend data after the Cambridge Analytica	
18	scandal, and you were not prepared at the time to	
19	testify; however, I understand that you are now	
20	able to testify to that. If I if I understand	09:09:36
21	that correctly, could answer that question?	
22	MR. SCHWING: Object to the form of the	
23	question.	
24	Derek, I hesitate here, but let me just	
25	try to be helpful. And in the interest I	09:09:58
		Page 1195

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1	just if if you can just ask him the question	09:10:02
2	as opposed to	
3	MR. LOESER: Sure. Sure.	
4	MR. SCHWING: having representations	
5	of counsel that's my problem with it, okay.	09:10:05
6	MR. LOESER: Yeah, and I appreciate that.	
7	And I'm not trying to pick a fight with you. I was	
8	just trying to make sure that	
9	MR. SCHWING: Yeah. No, I	
10	MR. LOESER: I'm not trying to ask him	09:10:14
11	questions that he's not able to answer. I'm trying	
12	to	
13	MR. SCHWING: Yeah.	
14	MR. LOESER: ask questions now which	
15	he is able to answer based on our communications.	09:10:17
16	Q. (By Mr. Loeser) So let me just ask	
17	again.	
18		
		Page 1196



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1	state it was getting rid of apps ability to get	09:12:39
2	Facebook user data from users friends when, in	
3	fact, Facebook continued to allow a number of apps	
4	to do just that?	
5	MR. SCHWING: Outside of the topics of 6	09:12:53
6	and 7.	
7	THE DEPONENT: Again, I'm not aware of	
8	of a statement that that Facebook's made to	
9	that would indicate Facebook believes that that's	
10	the case.	09:13:07
11	Q. (By Mr. Loeser) Mr. Cross, I'm not	
12	asking you if you're aware of the statement	
13	Facebook has made. I'm asking you as Facebook's	
14	corporate designee, whether it was wrong for	
15	Facebook to publicly state it was getting rid of	09:13:17
16	apps ability to get Facebook user data from the	
17	users friends when, in fact, Facebook continued to	
18	allow a number of apps to do just that?	
19	MR. SCHWING: Vague. Lacks foundation.	
20	Outside the scope of the definition.	09:13:32
21	THE DEPONENT: I I I'm afraid, I	
22	don't work in in corporate communications, and	
23	so I'm not an expert in what statements Facebook	
24	made or should have made around around this	
25	time. As I said, I'm not aware of statements that	09:13:52
		Page 1198

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1	Facebook has made to indicate that.	09:14:00
2	Q. (By Mr. Loeser) And, Mr. Cross, are you	
3	unable to testify as Facebook's corporate designee	
4	as to whether it was wrong for Facebook to state it	
5	was getting rid of apps ability to get Facebook	09:14:11
6	user data from a users friends when, in fact,	
7	Facebook continued to allow a number of apps to do	
8	just that?	
9	MR. SCHWING: Outside of the scope of	
10	topics 6 and 7. And lacks foundation.	09:14:24
11	THE DEPONENT: As I said like I'm	
12	not I don't feel comfortable giving an answer on	
13	behalf of the company there. I've given I'm not	
14	an expert in, or I'm not really working in	
15	corporate communications or really have the	09:14:46
16	expertise required to to answer that question	
17	like that, I'm afraid.	
18	Q. (By Mr. Loeser) Mr. Cross, you testified	
19	that one reason Facebook gave third parties access	
20	to friend information after 2014 was to avoid	09:15:07
21	breaking the user experience, right?	
22	MR. SCHWING: Object to form.	
23	THE DEPONENT: I recall we we were	
24	discussing the the reasons for giving some apps	
25	additional time to migrate between API version 1	09:15:28
		Page 1199

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1	and version 2.	09:15:33
2	Q. (By Mr. Loeser) So that the user	
3	experience will not be broken?	
4	MR. SCHWING: Object to form.	
5	THE DEPONENT: My understanding is	09:15:39
6	sorry. My understand is that's one of the reasons	
7	why Facebook allowed apps extra time to transition	
8	from version 1 to version 2.	
9	Q. (By Mr. Loeser) So for third parties who	
10	received friend information after 2014, their user	09:15:56
11	experience was not broken, right?	
12	MR. SCHWING: Object to form.	
13	THE DEPONENT: So I'm not I'm not sure	
14	I understand the question since can you I'm	
15	not sure I understand the question.	09:16:13
16	Q. (By Mr. Loeser) You understand what it	
17	means to break the user experience, right?	
18	A. Different applications behave in	
19	different ways when the API is is changed for	
20	them.	09:16:28
21	Q. And APIs that that apps that depend on	
22	friend information if the friend information no	
23	longer is available that breaks the user	
24	experience, right?	
25	A. It could break the user experience.	09:16:41
		Page 1200

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1	Again, the precise way in which the application was	09:16:43
2	effected would be different from application to	
3	application.	
4	Q. Okay. But for an app that depends upon	
5	friend data, if that app was continued to	09:16:53
6	allowed continued to have access to friend data,	
7	than the user experience would not be broken,	
8	right?	
9	MR. SCHWING: Object to form.	
10	THE DEPONENT: Typically where an app is	09:17:08
11	built to work with a particular version of an or	
12	a particular way an API works and then that API	
13	doesn't change, then the behavior of the app also	
14	would not change.	
15	Q. (By Mr. Loeser) Okay. And there were	09:17:23
16	many third-party applications who before 2015	
17	relied on nonapp friend information for their user	
18	experience, right?	
19	A. There were applications built prior	
20	prior to 2014 which reviewed friends information in	09:17:41
21	various ways.	
22	Q. And not just various ways but for the	
23	user experience, right?	
24	A. Some apps would have used that	
25	information very much in the user experience.	09:18:01
		Page 1201

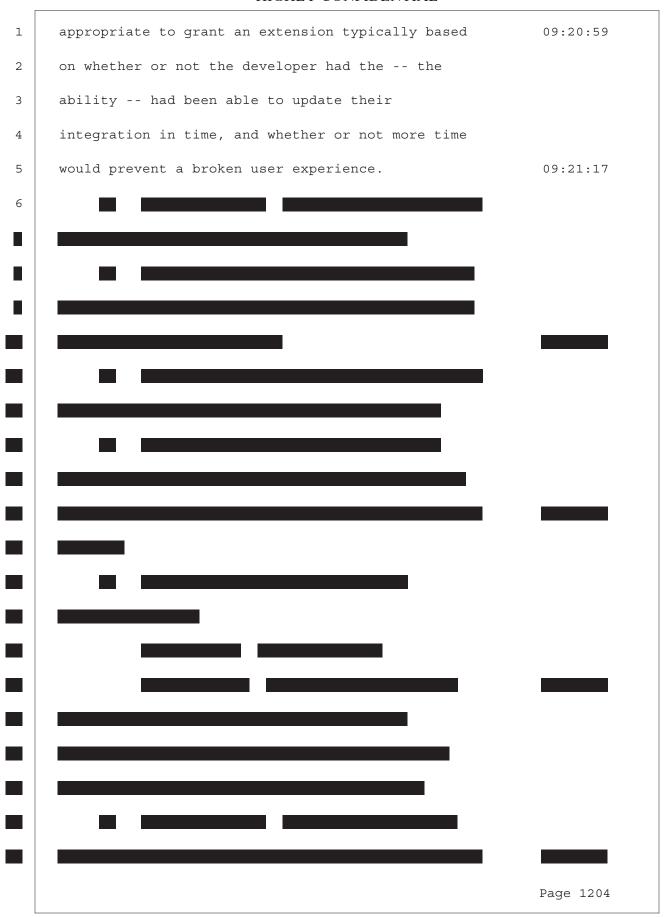
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1	Q. Mr. Cross, not all those third parties	09:18:04
2	received an extension or access to a private API,	
3	right?	
4	A. Facebook gave developers a year to	
5	transition from API version 1 to version 2.	09:18:20
6	Q. Okay. And not all apps received	
7	extensions beyond that time period, right?	
8	A. Not all apps were were given	
9	additional time to migrate.	
10	Q. And so for those apps that relied on	09:18:36
11	friend information for the user experience that did	
12	not receive an extension beyond a year, the the	
13	user experience was broken for those apps, right?	
14	MR. SCHWING: Object to form.	
15	THE DEPONENT: I don't think that's an	09:18:59
16	appropriate characterization to make. Many	
17	developers updated their application, such that it	
18	continued to to operate.	
19	Q. (By Mr. Loeser) But for those that	
20	depended on the same nonapp friend information that	09:19:15
21	they got before the transition to the new platform,	
22	the user experience was broken for those apps,	
23	right?	
24	MR. SCHWING: Object to form.	
25	THE DEPONENT: No, I don't think that's	09:19:31
		Page 1202

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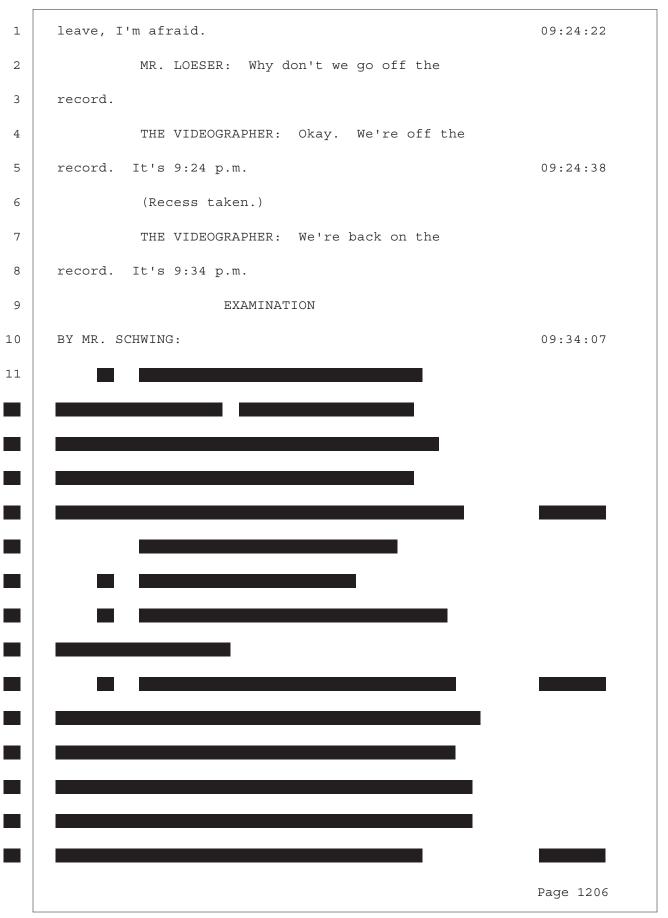
1	an appropriate characterization to make. Apps	09:19:33
2	developers were in many cases up able to update	
3	their application such that it did not rely on	
4	access to that information.	
5	Q. (By Mr. Loeser) So there were no apps	09:19:49
6	for which the user experience was broken as a	
7	result of not providing the app with private API	
8	for that information?	
9	MR. SCHWING: Object to form.	
10	THE DEPONENT: That's also not quite what	09:20:04
11	I said. I said that many many developers were	
12	able to update their application. Others choose	
13	to chose to stop offering their application.	
14	And there would have been some developers who did	
15	none of those things. And their application would	09:20:19
16	behave in different ways depending on exactly how	
17	their application was built.	
18	Q. (By Mr. Loeser) So how did Facebook	
19	decide which user experiences to break and which	
20	user experiences not to break when it came to	09:20:31
21	providing friend sharing extensions?	
22	MR. SCHWING: Object to form.	
23	THE DEPONENT: Facebook evaluated the	
24	partnerships team at Facebook along with the the	
25	work team, evaluated whether or not it was	09:20:51
		Page 1203

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1		
10	Q. (By Mr. Loeser) Mr. Cross, does	09:23:30
11	Jackie Chang still work for Facebook?	
12	A. I'm I think she may still work for	
13	Facebook but is on maternity leave.	
14	Q. And to prepare for your testimony	
15	regarding friend sharing and whitelisting, did you	09:23:46
16	speak with Jackie Chang?	
17	A. I did not speak with Jackie Chang. As I	
18	understand she's she's currently on leave.	
19	Q. Is that the reason why you didn't try to	
20	speak with her?	09:24:02
21	A. Typically if someone is on leave, I would	
22	generally like to leave them on leave.	
23	Q. And do you know when she returns from	
24	leave?	
25	A. I I'm not sure when she returns from	09:24:19
		Page 1205

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1		
5	Q. Were third parties whitelisted for friend	09:35:43
6	information because of the revenue that they	
7	deliver to Facebook?	
8	A. No.	
9	Q. Are third parties whitelisted for friend	
10	information because of their advertising spend?	09:35:58
11	A. No.	
12	MR. SCHWING: I don't have anything	
13	further.	
14	MR. LOESER: Brief follow up.	
15	FURTHER EXAMINATION	09:36:10
16	BY MR. LOESER:	
17	Q. You referred to an effort to migrate, was	
18	it site bar what was migrated from what to what?	
19	A. So the gatekeeper tool contained a number	
20	of gatekeepers, which we used to modify the	09:36:32
21	behavior of the API based on an app ID, and	
22	where Facebook uncovered or identified sorry,	
23	where Facebook identified gatekeepers that were	
24	based on an app ID then that gatekeeper was	
25	migrated to be a capability.	09:36:58
		Page 1207

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1	Q. And what prompted that migration?	09:37:00
2	A. A desire to have a single tool to manage	
3	all of the ways in which the API behavior could be	
4	modified.	
5	Q. Now, Mr. Cross, in response to	09:37:37
6	Mr. Schwing's question about revenue, you've	
7	testified that partners were not whitelisted for	
8	friend data because the revenue they deliver to	
9	Facebook.	
10	Is that your testimony as Facebook's	09:37:56
11	corporate designee?	
12	A. My understanding from reviewing documents	
13	and speaking to people, is the revenue or ad spend	
14	was not a determining factor as to whether or not	
15	an app was granted access to friends data.	09:38:15
16	Q. And the basis of your knowledge there,	
17	that's not based on your personal knowledge is it?	
18	A. I certainly have no personal knowledge	
19	of sorry. Let me put that another way.	
20	In my experiences, I'm I was not aware	09:38:36
21	of anytime revenue was used to make a whitelisting	
22	decision with regards to friends data, and the	
23	people I spoke to in in preparation for this	
24	testimony also concurred with that view.	
25	Q. And those people you spoke to are two	09:39:04
		Page 1208

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1	individuals that you identified before Mr. Mehta	09:39:06
2	and Mr. Archibong; is that right?	
3	MR. SCHWING: Misstates testimony.	
4	THE DEPONENT: Those are two of the	
5	people that I spoke to in preparation for today.	09:39:17
6	Q. (By Mr. Loeser) And is there anybody	
7	else that told you that ad spend and revenue was	
8	not taken into account by Facebook when deciding	
9	which partners to whitelist?	
10	A. I can't recall the names of all the other	09:39:35
11	people I spoke to in in preparation for this,	
12	but all the people I spoke to, and of all the	
13	documents I reviewed, concurs with the the	
14	understanding that revenue was not taken into	
15	account with regards to whitelisting apps to friend	09:39:58
16	information.	
17	Q. Now, Mr. Cross, we went through many,	
18	many documents that suggest to the contrary, didn't	
19	we?	
20	MR. SCHWING: Argumentative. Lacks	09:40:11
21	foundation.	
22	Q. (By Mr. Loeser) Isn't that true,	
23	Mr. Cross?	
24	A. We've been through documents which	
25	looked to assess the potential impact of the	09:40:25
		Page 1209
		I

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1	changes. And and some of those documents	09:40:27
2	mentioned revenue as as part of the early	
3	assessments.	
4	But when speaking to the people that were	
5	involved in native whitelisting, the revenue from	09:40:44
6	these device integration partners were, or other	
7	platform partners, was not considered as part of	
8	the decision to to grant them access.	
9	Q. And so you're saying that because these	
10	two individuals you talked to told you that?	09:41:07
11	MR. SCHWING: Object	
12	Q. (By Mr. Loeser) The documents certainly	
13	don't tell you that, do they?	
14	MR. SCHWING: Argumentative. Lacks	
15	foundation.	09:41:17
16	THE DEPONENT: Speaking to people who	
17	were involved in in the decisions as to why apps	
18	ultimately were granted extensions or exemptions	
19	they the impact on on revenue from not doing	
20	so, was not an impact. Was not a factor in the	09:41:40
21	decision-making.	
22	Q. (By Mr. Loeser) Well, did you did you	
23	identify any internal documents at Facebook that	
24	said what you just said?	
25	MR. SCHWING: Object to form.	09:41:56
		Page 1210
		I I

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1	Q. (By Mr. Loeser) Any? Did you identify a	09:42:01
2	single document that confirms what you just said?	
3	MR. SCHWING: Same objection.	
4	THE DEPONENT: I reviewed a number of	
5	documents. I I don't recall a document that	09:42:15
6	that says exactly what I just said. Again,	
7	speaking to the the people involved and from my	
8	own experiences, involved in in this time in	
9	terms of giving apps giving partners continued	
10	access to to friend data for a period of time as	09:42:41
11	an extension or exemption, the revenue from those	
12	partners was was not a factor in the	
13	decision-making as to whether or not to grant them	
14	full access.	
15	Q. (By Mr. Loeser) Mr. Cross, can you	09:42:55
16	identify even one document generated internally at	
17	Facebook that says that ad revenue, ad spend and	
18	revenue was not taken into account when deciding	
19	which partners to whitelist?	
20	MR. SCHWING: Object to form. Asked and	09:43:15
21	answered.	
22	THE DEPONENT: I can't identify as I sit	
23	here a a document that	
24	SPECIAL MASTER GARRIE: Answer the	
25	question. Yes or no. It is a simple question,	09:43:26
		Page 1211

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1	answer it accordingly.	09:43:33
2	THE DEPONENT: As I sit here today, I	
3	can't identify a document that that says that	
4	specifically.	
5	Q. (By Mr. Loeser) Now, Mr. Cross, you say	09:43:46
6	you talked to two individuals who told you that	
7	revenue and ad spend was not taken into account in	
8	whitelisting decisions.	
9	Has it occurred to you that perhaps	
10	they're not telling you the truth?	09:43:56
11	MR. SCHWING: Object to form.	
12	THE DEPONENT: I suppose the people I	
13	spoke in preparation for this deposition are people	
14	that were involved over over a long period of	
15	time in how Facebook manages its developer platform	09:44:21
16	and platform partnerships.	
17	These people are knowledgeable about	
18	their about their space and they were effusive	
19	in helping me understand their view on how	
20	whitelisting decisions were made.	09:44:43
21	And revenue was not considered in the	
22	ultimate decision to whitelist. The documents	
23	you're, I think referring to, for example,	
24	Ms. Mosseri is is a draft document. It was	
25	prepared when the company was attempting to	09:45:07
		Page 1212

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1	understand the potential impact. And, you know, my	09:45:13
2	understanding is that as a result, of my	
3	conversations, revenue was not a factor in deciding	
4	whether or not to grant apps continued access to	
5	friend data.	09:45:35
6	Q. (By Mr. Loeser) Mr. Cross, I asked you a	
7	very simple and straightforward question. Would	
8	you like me to read it back to you so that you can	
9	answer it? I'll ask it again.	
10	Mr. Cross, you say, you talked to two	09:45:47
11	individuals who told you that revenue and ad spend	
12	was not taken into account in whitelisting	
13	decisions.	
14	Has it occurred to you that perhaps they	
15	are not telling you the truth?	09:45:58
16	MR. SCHWING: The question is	
17	argumentative.	
18	THE DEPONENT: I have no reason	
19	SPECIAL MASTER GARRIE: Answer the	
20	question.	09:46:09
21	THE DEPONENT: I have no reason to doubt	
22	they were telling me the truth.	
23	Q. (By Mr. Loeser) And, Mr. Cross, when you	
24	spoke to those two individuals, did you bring to	
25	their attention the series of documents that we	09:46:19
		Page 1213
		I I

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1	sent over to you before your deposition that talked	09:46:22
2	about the identification of strategic partners and	
3	the revenue received from them in whitelisting	
4	decisions?	
5	A. And so I think the last of what you said	09:46:40
6	there is is not I'm not sure I fully	
7	understand. We the I'm sorry. I that was	
8	about three things in that in that question	
9	which which I would like to unpick.	
10	Can you ask me the question again,	09:46:58
11	please.	
12	Q. Mr. Cross, were you provided with any	
13	contemporaneous contemporaneous written record	
14	from the people you spoke to about the basis for	
15	whitelisting decisions that indicated that revenue	09:47:26
16	and ad spend was not taken into account in making	
17	those decisions?	
18	A. Was I provided with any	
19	contemporaneous like sorry. I'm I'm	
20	really I'm really just not sure I'm	09:47:45
21	understanding that question.	
22	Q. Okay. By "contemporaneous," I mean at	
23	the time the whitelisting decisions were made, were	
24	you provided with any written record from the time	
25	at which whitelisting decisions were made that	09:47:59
		Page 1214

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1	indicated that ad revenue that ad spend and	09:48:01	
2	revenue was not taken into account in the		
3	whitelisting decisions?		
4	MR. SCHWING: Object to form.		
5	THE DEPONENT: I was not provided with	09:48:16	
6	with with documents that that state that		
7	ad revenue was not included in the decision-making.		
8	Although my again, my conversations		
9	and the documents I've reviewed talk about what		
10	factors were included, it would not necessarily be	09:48:37	
11	normal for them to be explicit, that was not		
12	included.		
13	Q. (By Mr. Loeser) And, Mr. Cross, when		
14	conducting your own investigation to determine if		
15	you had been told the truth, did you go find out	09:48:53	
16	how much money the whitelisted partners had paid to		
17	Facebook after 2014?		
18	MR. SCHWING: Object to form.		
19	THE DEPONENT: I, in preparation for this		
20	case, did not attempt to find out how much revenue	09:49:17	
21	these partners certain partners had paid		
22	Facebook over time. And because from my own		
23	observations in speaking to the people involved,		
24	the decisions to whitelist were based on the desire		
25	to keep valuable integrations running and to	09:49:42	
		Page 1215	
			- 1

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1	minimize broken experiences for widely used apps,	09:49:51			
2	and to give developers, some developers additional				
3	time to migrate.				
4	In in none of that none of those in				
5	the documents that I reviewed about the time in	09:50:08			
6	terms of whitelisting decisions, was was revenue				
7	mentioned in relation to friend data.				
8	Q. (By Mr. Loeser) Mr. Cross, I'm going to				
9	ask you one more time. And I would like a				
10	yes-or-no answer to a yes-or-no question.	09:50:24			
11	And then we can be finished for the				
12	night.				
13	In conducting your own investigation to				
14	determine if you had been told the truth, did you				
15	go find out how much money the whitelisted partners	09:50:34			
16	had paid to Facebook after 2014, yes or no?				
17	MR. SCHWING: Argumentative.				
18	THE DEPONENT: No, I did not conduct an				
19	investigation into how much money those partners				
20	had spent on ad revenue.	09:51:00			
21	MR. LOESER: Thank you. Those are the				
22	questions I have.				
23	Just noting for the record, Mr. Schwing,				
24	we do have concerns about the ability of the				
25	witness to testify as to certain topics. I won't	09:51:14			
		Page 1216			

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1	take anymore of his time right now on the record.	09:51:17			
2	We can talk about that later, but obviously reserve				
3	the right based on our ongoing conversations to				
4	to have more questions of perhaps another witness.				
5	But I appreciate Mr. Cross's time. I	09:51:29			
6	know this has been a a long deposition, and				
7	thank you very much for your willingness to				
8	participate. And that's all I have for the night.				
9	MR. SCHWING: And, Derek, obviously we				
10	we reserve all rights and with respect to the issue	09:51:44			
11	you raised and we're happy to discuss that with you				
12	off the record at a later time.				
13	One housekeeping item is, I would suggest				
14	that the witness be given 45 days to review his				
15	testimony. I think that's what we've been doing	09:52:00			
16	for the most part in the case				
17	SPECIAL MASTER GARRIE: 30 days.				
18	MR. SCHWING: provide any corrections.				
19	SPECIAL MASTER GARRIE: I think Gibson				
20	requested 30 days.	09:52:11			
21	MR. SCHWING: Well, Special Master				
22	Garrie, I think we actually were using 45. The				
23	last time I got on with Mr. Cross I said 30 days				
24	because I was the new guy, and didn't realize what				
25	we had been doing.	09:52:21			
		Page 1217			

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1	SPECIAL MASTER GARRIE: Is that in the	09:52:22
2	protocol? There was an explicit request in the	
3	protocol. I can't remember what it is.	
4	MR. SCHWING: Yeah.	
5	SPECIAL MASTER GARRIE: But I know you	09:52:28
6	added specific language for that request, so	
7	whatever it is it is.	
8	MR. LOESER: We can go off the record and	
9	we can	
10	MR. SCHWING: Yeah, and the other	09:52:36
11	well, before we go off the record we're still on	
12	the record, right?	
13	SPECIAL MASTER GARRIE: Still on the	
14	record.	
15	MR. SCHWING: The testimony and documents	09:52:46
16	should the testimony should be treated as	
17	"Highly Confidential" and we'll be obviously	
18	reviewing the testimony and making appropriate	
19	designations.	
20	MR. LOESER: Understood.	09:52:58
21	Okay. Let's go off the record.	
22	THE VIDEOGRAPHER: Okay. We're off the	
23	record. It's 9:53 p.m.	
24	(TIME NOTED: 9:53 p.m.)	
25	000	09:53:06
		Page 1218

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1	I, Rebecca L. Romano, a Registered
2	Professional Reporter, Certified Shorthand
3	Reporter, Certified Court Reporter, do hereby
4	certify:
5	That the foregoing proceedings were taken
6	before me remotely at the time and place herein set
7	forth; that any deponents in the foregoing
8	proceedings, prior to testifying, were administered
9	an oath; that a record of the proceedings was made
10	by me using machine shorthand which was thereafter
11	transcribed under my direction; that the foregoing
12	transcript is true record of the testimony given.
13	Further, that if the foregoing pertains to the
14	original transcript of a deposition in a Federal
15	Case, before completion of the proceedings, review
16	of the transcript [X] was [] was not requested.
17	I further certify I am neither financially
18	interested in the action nor a relative or employee
19	of any attorney or any party to this action.
20	IN WITNESS WHEREOF, I have this date
21	subscribed my name.
22	
23	Dated: June 24, 2022
24	reducing formano
	Rebecca L. Romano, RPR, CCR
25	CSR. No 12546
	Page 1220
	1490 1220

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In Re: Facebook, Inc. Consumer Privacy User Profile
Litigation
SIMON CROSS 30(B)(6)-Volume 5-5291734
ERRATA SHEET
PAGE 1003 LINE 1 CHAN
REASON transcription error
PAGE 1016 LINE 6 CHAN
REASON transcription error
PAGE 1022 LINE 7 CHANGE
REASON misspoke
PAGE 1024 LINE 19 CHANGE
REASON transcription error
PAGE 1028 LINE 8 CHANGE CHANGE
REASON transcription error
PAGE 1029 LINE 6 CHANGE "most of" to "most"
REASON misspoke
TimesCires 6th Aug 2022
6th Aug 2022
WITNESS Date
Page 1223
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1	In Re: Facebook, Inc. Consumer Privacy User Profile
	Litigation
2	SIMON CROSS 30(B)(6)-Volume 5-5291734
3	ERRATA SHEET
4	PAGE 1031 LINE 7 CHAN
5	
6	REASON transcription error
7	PAGE 1032 LINE 4 CHAN
8	
9	REASON_misspoke
10	PAGE 1033 LINE 10 CHANGE
11	
12	REASON transcription error
13	PAGE 1035 LINE 1 CHANGE
14	
15	REASON_misspoke
16	PAGE 1050 LINE 22 CHANGE CHANGE
17	
18	REASON transcription error
19	PAGE 1052 LINE 6 CHANGE CHANGE
20	
21	REASON transcription error
22	
23	Timosling 6th Aug 2022
24	WITNESS Date
25	
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	Page 1223

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1	In Re: Facebook, Inc. Consumer Privacy User Profile
	Litigation
2	SIMON CROSS 30(B)(6)-Volume 5-5291734
3	ERRATA SHEET
4	PAGE 1052 LINE 8 CHAN
5	<u> </u>
6	REASON transcription error
7	PAGE 1053 LINE 7 CHAN
8	
9	REASON transcription error
10	PAGE 1054 LINE 8 CHANGE
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13	PAGE 1057 LINE 17 CHANGE
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15	REASON transcription error
16	PAGE 1062 LINE 24 CHANGE CHANGE
17	
18	REASON transcription error
19	PAGE 1065 LINE 17 CHANGE CHANGE
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	Page 1223

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1	In Re: Facebook, Inc. Consumer Privacy User Profile
	Litigation
2	SIMON CROSS 30(B)(6)-Volume 5-5291734
3	ERRATA SHEET
4	PAGE 1070 LINE 11 CHAN
5	
6	REASON transcription error
7	PAGE 1074 LINE 3 CHAN
8	
9	REASON transcription error
10	PAGE 1077 LINE 10 CHANGE CHANGE
11	
12	REASON transcription error
13	PAGE 1080 LINE 14 CHANGE CHANGE
14	
15	REASON transcription error
16	PAGE 1081 LINE 16 CHANGE
17	
18	REASON transcription error
19	PAGE 1117 LINE 18 CHANGE CHANGE
20	<u> </u>
21	REASON transcription error
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23	Timoslings 6th Aug 2022
24	WITNESS Date
25	
	Page 1223

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1	In Re: Facebook, Inc. Consumer Privacy User Profile
	Litigation
2	SIMON CROSS 30(B)(6)-Volume 5-5291734
3	ERRATASHEET
4	PAGE 1119 LINE 12 CHAN
5	
6	REASON transcription error
7	PAGE 1136 LINE 19 CHAN
8	
9	REASON transcription error
10	PAGE 1136 LINE 24 CHANGE CHANGE
11	
12	REASON transcription error
13	PAGE 1149 LINE 21 CHANGE
14	
15	REASON transcription error
16	PAGE 1175 LINE 24 CHANGE "developing" to "developer"
17	
18	REASON transcription error
19	PAGE 1190 LINE 25 CHANGE CHANGE
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21	REASON transcription error
22	Size of
23	Simular 6th Aug 2022
24	WITNESS Date
25	
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1	In Re: Facebook, Inc. Consumer Privacy User Profile
	Litigation
2	SIMON CROSS 30(B)(6)-Volume 5-5291734
3	ERRATASHEET
4	PAGE 1191 LINE 8 CHAN
5	
6	REASON transcription error
7	PAGE 1200 LINE 6 CHANGE "understand" to "understanding"
8	
9	REASON transcription error
10	PAGE 1206 LINE 22 CHANGE
11	
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15	REASON
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Federal Rules of Civil Procedure Rule 30

- (e) Review By the Witness; Changes.
- (1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:
- (A) to review the transcript or recording; and
- (B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.
- (2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES

OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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